

# Enrolled Senate Bill 512

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CHAPTER .....

## AN ACT

Relating to parentage; creating new provisions; and amending ORS 25.020, 25.075, 25.082, 25.650, 25.750, 107.179, 107.425, 109.012, 109.030, 109.070, 109.072, 109.073, 109.092, 109.094, 109.096, 109.098, 109.103, 109.124, 109.125, 109.145, 109.155, 109.175, 109.239, 109.243, 109.247, 109.251, 109.252, 109.254, 109.259, 109.264, 109.315, 109.321, 109.326, 109.704, 112.105, 163.565, 180.320, 180.380, 192.535, 192.539, 416.400, 419A.004, 419B.395, 419B.839, 419B.875, 432.088, 432.098, 432.103 and 432.245 and ORCP 4 K.

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

**SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 109.**

**SECTION 2. (1) Parentage may be established between a person and a child by:**

- (a) The person having given birth to the child;**
  - (b) An un rebutted presumption of parentage under ORS 109.070;**
  - (c) An adjudication of the person’s maternity or paternity;**
  - (d) Adoption of the child by the person;**
  - (e) An effective acknowledgement of paternity by the man under ORS 109.070 or pursuant to the laws of another state, unless the acknowledgement has been rescinded or successfully challenged;**
  - (f) Establishment of paternity by an administrative order issued pursuant to ORS chapter 416;**
  - (g) Filiation proceedings; or**
  - (h) Parentage being established or declared by another provision of law.**
- (2) A person is the mother of a child to whom the person gives birth.**

**SECTION 3. ORS 109.070, as amended by section 42, chapter 106, Oregon Laws 2016, is amended to read:**

109.070. (1) The [*paternity*] **parentage** of a person [*may be established as follows*] **is rebuttably presumed if:**

- (a) [*A man is rebuttably presumed to be the father of a child born to a woman if he and the woman were married to each other*] **The person is married to the birth mother** at the time of the child’s birth, without a judgment of separation, regardless of whether the marriage is void.**
- (b) [*A man is rebuttably presumed to be the father of a child born to a woman if he and the woman were married to each other*] **The person is married to the birth mother** and the child is born within 300 days after the marriage is terminated by death, annulment or dissolution or after entry of a judgment of separation.**

*[(c) By the marriage of the parents of a child after the birth of the child, and the parents filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of paternity form as provided for by ORS 432.098.]*

*[(d) By filiation proceedings.]*

*[(e) By filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of paternity form as provided for by ORS 432.098. Except as otherwise provided in subsections (4) to (7) of this section, this filing establishes paternity for all purposes.]*

*[(f) By having established paternity through a voluntary acknowledgment of paternity process in another state.]*

*[(g) By paternity being established or declared by other provision of law.]*

(2) The *[paternity]* **parentage** of a child established under subsection (1)(a) or *[(c)]* (4)(a) of this section may be challenged in an action or proceeding by *[the husband or wife]* **either spouse**. The *[paternity]* **parentage** may not be challenged by a person other than *[the husband or wife]* **a spouse** as long as the *[husband and wife]* **spouses** are married and **are** cohabiting, unless *[the husband and wife]* **both spouses** consent to the challenge.

(3) If the court finds that it is just and equitable, giving consideration to the interests of the parties and the child, the court shall admit evidence offered to rebut the presumption of *[paternity]* **parentage** in subsection (1)*[(a) or (b)]* of this section.

(4) **The paternity of a person may be established by a voluntary acknowledgement as follows:**

(a) **By the marriage of the parents of a child after the birth of the child, and the parents filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgement of paternity form as provided by ORS 432.098.**

(b) **By filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgement of paternity form as provided under ORS 432.098. Except as otherwise provided in subsections (5) and (8) of this section, a filing under this paragraph establishes paternity for all purposes.**

(c) **By establishment of paternity through a voluntary acknowledgement of paternity in another state.**

*[(4)(a)]* (5)(a) A party to a voluntary acknowledgment of paternity may rescind the acknowledgment within the earlier of:

(A) Sixty days after filing the acknowledgment; or

(B) The date of a proceeding relating to the child, including a proceeding to establish a support order, in which the party wishing to rescind the acknowledgment is also a party. For the purposes of this subparagraph, the date of a proceeding is the date on which an order is entered in the proceeding.

(b) To rescind the acknowledgment, the party shall sign and file with the State Registrar of the Center for Health Statistics a written document declaring the rescission.

*[(5)(a)]* (6)(a) A signed voluntary acknowledgment of paternity filed in this state may be challenged and set aside in circuit court at any time after the 60-day period referred to in subsection *[(4)]* (5) of this section on the basis of fraud, duress or a material mistake of fact.

(b) The challenge may be brought by:

(A) A party to the acknowledgment;

(B) The child named in the acknowledgment; or

(C) The Department of Human Services or the administrator, as defined in ORS 25.010, if the child named in the acknowledgment is in the care and custody of the department under ORS chapter 419B and the department or the administrator reasonably believes that the acknowledgment was signed because of fraud, duress or a material mistake of fact.

(c) The challenge shall be initiated by filing a petition with the circuit court. Unless otherwise specifically provided by law, the challenge shall be conducted pursuant to the Oregon Rules of Civil Procedure.

(d) The party bringing the challenge has the burden of proof.

(e) Legal responsibilities arising from the acknowledgment, including child support obligations, may not be suspended during the challenge, except for good cause.

(f) If the court finds by a preponderance of the evidence that the acknowledgment was signed because of fraud, duress or material mistake of fact, the court shall set aside the acknowledgment unless, giving consideration to the interests of the parties and the child, the court finds that setting aside the acknowledgment would be substantially inequitable.

[(6)] (7) Within one year after a voluntary acknowledgment of paternity form is filed in this state and if blood tests, as defined in ORS 109.251, have not been completed, a party to the acknowledgment, or the department if the child named in the acknowledgment is in the care and custody of the department under ORS chapter 419B, may apply to the administrator for an order for blood tests in accordance with ORS 416.443.

[(7)(a)] (8)(a) A voluntary acknowledgment of paternity is not valid if, before the party signed the acknowledgment:

(A) The party signed a consent to the adoption of the child by another individual;

(B) The party signed a document relinquishing the child to a child-caring agency as defined in ORS 418.205;

(C) The party's parental rights were terminated by a court; or

(D) In an adjudication, the party was determined not to be the biological parent of the child.

(b) Notwithstanding any provision of subsection [(1)(c) or (e)] (4)(a) or (b) of this section or ORS 432.098 to the contrary, an acknowledgment signed by a party described in this subsection and filed with the State Registrar of the Center for Health Statistics does not establish paternity and is void.

**SECTION 4.** ORS 109.239 is amended to read:

109.239. (1) **As used in ORS 109.239 to 109.247, "assisted reproduction" means a method of causing pregnancy other than sexual intercourse. "Assisted reproduction" includes, but is not limited to:**

(a) **Artificial insemination as defined in ORS 677.355;**

(b) **Donation of eggs;**

(c) **Donation of embryos;**

(d) **In vitro fertilization and transfer of embryos; or**

(e) **Intracytoplasmic sperm injection.**

(2) If the donor of [semen] **gametes** used in [artificial insemination] **assisted reproduction** is not the mother's [husband] **spouse**:

[(1)] (a) [Such] **The** donor shall have no right, obligation or interest with respect to [a] **any** child [born] **conceived** as a result of the [artificial insemination] **assisted reproduction**; and

[(2)] (b) [A] **Any** child [born] **conceived** as a result of the [artificial insemination] **assisted reproduction** shall have no right, obligation or interest with respect to [such] **the** donor.

**SECTION 5.** ORS 109.243 is amended to read:

109.243. The relationship, rights and obligation between a child [born] **conceived** as a result of [artificial insemination] **assisted reproduction** and the mother's [husband] **spouse** shall be the same to all legal intents and purposes as if the child had been naturally and legitimately conceived by the mother and the mother's [husband] **spouse** if the [husband] **spouse** consented to the performance of [artificial insemination] **assisted reproduction**.

**SECTION 6.** ORS 109.247 is amended to read:

109.247. Except as may be otherwise provided by a judicial decree entered in any action filed before October 4, 1977, the provisions of ORS 109.239 to 109.247, 677.355 to 677.365 and 677.990 (3) apply to all persons conceived as a result of [artificial insemination] **assisted reproduction**.

**SECTION 7.** ORS 416.400 is amended to read:

416.400. As used in ORS 416.400 to 416.465, unless the context requires otherwise:

(1) "Administrator" has the meaning given that term in ORS 25.010.

(2) "Court" means any circuit court of this state and any court in another state having jurisdiction to determine the liability of persons for the support of another person.

(3) "Court order" means any judgment or order of any Oregon court that orders payment of a set or determinable amount of support money by the subject parent and does not include an order or judgment in any proceeding in which the court did not order support.

(4) "Department" means the Department of Justice of this state or its equivalent in any other state from which a written request for establishment or enforcement of a support obligation is received under ORS 416.415.

(5) "Dependent child" means any person under the age of 18 who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States. "Dependent child" also means a child attending school as defined in ORS 107.108.

(6) "Office" means the office of the Division of Child Support or the office of the district attorney.

(7) "Parent" means:

(a) The natural or adoptive father or mother of a dependent child or youth offender[.];

(b) **A person whose parentage has been established under section 2 of this 2017 Act; or**

(c) [*"Parent" also means*] **A stepparent** when the person has an obligation to support a dependent child under ORS 108.045.

(8) "Past support" means the amount of child support that could have been ordered and accumulated as arrears against a parent for the benefit of a child for any period of time during which the child was not supported by the parent and for which period no support order was in effect.

(9) "Public assistance" means any money payments made by the state that are paid to or for the benefit of any dependent child or youth offender, including but not limited to payments made so that food, shelter, medical care, clothing, transportation or other necessary goods, services or items may be provided, and payments made in compensation for the provision of the necessities. "Public assistance" does not include money payments made by the state to or for the benefit of a dependent child as the result of the child's removal from the parent's home against the wishes of the parent, if the Department of Human Services determines after completion of a child protective services assessment that the report of abuse is unfounded according to rules adopted by the Department of Human Services.

(10) "Youth offender" has the meaning given that term in ORS 419A.004.

**SECTION 8.** ORS 25.020 is amended to read:

25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

(a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or 419C.597;

(b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a person who receives or has a right to receive support payments on the person's own behalf or on behalf of another person;

(c) After the assignment of support terminates for as long as amounts assigned remain owing;

(d) For any period during which support enforcement services are provided under ORS 25.080;

(e) When ordered by the court under ORS 419B.400;

(f) When a support order that is entered or modified on or after January 1, 1994, includes a provision requiring the obligor to pay support by income withholding; or

(g) When ordered by the court under any other applicable provision of law.

(2)(a) The Department of Justice shall disburse payments, after lawful deduction of fees and in accordance with applicable statutes and rules, to those persons and entities that are lawfully entitled to receive such payments.

(b) During a period for which support is assigned under ORS 412.024, for an obligee described in subsection (1)(b) of this section, the department shall disburse to the obligee, from child support collected each month, \$50 for each child up to a maximum of \$200 per family.

(3)(a) When the administrator is providing support enforcement services under ORS 25.080, the obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for assistance in collecting child support payments.

(b) The Department of Justice:

(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection to the department;

(B) May reinstate disbursements to the obligee if:

(i) The obligee requests that disbursements be made directly to the obligee;

(ii) The collection agency violates any provision of this subsection; or

(iii) The Department of Consumer and Business Services notifies the Department of Justice that the collection agency is in violation of the rules adopted under ORS 697.086;

(C) Shall credit the obligor's account for the full amount of each support payment received by the department and disbursed to the collection agency; and

(D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be eligible for support enforcement services from the department or the district attorney without paying the interest or fee that is typically charged by a collection agency.

(c) The obligee shall:

(A) Provide to the department, on a form approved by the department, information about the agreement with the collection agency; and

(B) Promptly notify the department when the agreement is terminated.

(d) The collection agency:

(A) May provide investigative and location services to the obligee and disclose relevant information from those services to the administrator for purposes of providing support enforcement services under ORS 25.080;

(B) May not charge interest or a fee for its services exceeding 29 percent of each support payment received unless the collection agency, if allowed by the terms of the agreement between the collection agency and the obligee, hires an attorney to perform legal services on behalf of the obligee;

(C) May not initiate, without written authorization from the administrator, any enforcement action relating to support payments on which support enforcement services are provided by the administrator under ORS 25.080; and

(D) Shall include in the agreement with the obligee a notice printed in type size equal to at least 12-point type that provides information on the fees, penalties, termination and duration of the agreement.

(e) The administrator may use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(4) The Department of Justice may immediately transmit to the obligee payments received from any obligor without waiting for payment or clearance of the check or instrument received if the obligor has not previously tendered any payment by a check or instrument that was not paid or was dishonored.

(5) The Department of Justice shall notify each obligor and obligee by mail when support payments shall be made to the department and when the obligation to make payments in this manner shall cease.

(6)(a) The administrator shall provide information about a child support account directly to a party to the support order regardless of whether the party is represented by an attorney. As used in this subsection, "information about a child support account" means the:

(A) Date of issuance of the support order.

(B) Amount of the support order.

(C) Dates and amounts of payments.

(D) Dates and amounts of disbursements.

- (E) Payee of any disbursements.
- (F) Amount of any arrearage.
- (G) Source of any collection, to the extent allowed by federal law.

(b) Nothing in this subsection limits the information the administrator may provide by law to a party who is not represented by an attorney.

(7) Any pleading for the entry or modification of a support order must contain a statement that payment of support under a new or modified order will be by income withholding unless an exception to payment by income withholding is granted under ORS 25.396.

(8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order establishing [*paternity*] **parentage** or including a provision concerning support must contain:

(A) The residence, mailing or contact address, final four digits of the Social Security number, telephone number and final four digits of the driver license number of each party;

(B) The name, address and telephone number of all employers of each party;

(C) The names and dates of birth of the joint children of the parties; and

(D) Any other information required by rule adopted by the Chief Justice of the Supreme Court under ORS 1.002.

(b) The judgment or order shall also include notice that the obligor and obligee:

(A) Must inform the court and the administrator in writing of any change in the information required by this subsection within 10 days after the change; and

(B) May request that the administrator review the amount of support ordered after three years, or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a substantial change of circumstances.

(c) The administrator may require of the parties any additional information that is necessary for the provision of support enforcement services under ORS 25.080.

(d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would unreasonably be put at risk by the disclosure of information specified in this subsection or by the disclosure of other information concerning a child or party to a [*paternity*] **parentage** or support proceeding or if an existing order so requires, a court or administrator or administrative law judge, when the proceeding is administrative, shall order that the information not be contained in any document provided to another party or otherwise disclosed to a party other than the state.

(B) The Department of Justice shall adopt rules providing for similar confidentiality for information described in subparagraph (A) of this paragraph that is maintained by an entity providing support enforcement services under ORS 25.080.

(e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice, adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and require that the information be submitted through an alternate procedure to ensure that the information is exempt from public disclosure under ORS 192.502.

(9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child support enforcement action, the court or administrator, upon a showing of diligent effort made to locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

(b) Service of an order directing an obligor to appear in a contempt proceeding is subject to ORS 33.015 to 33.155.

(10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109, 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the county clerk or the Department of Human Services.

(11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be given for payments not made to the Department of Justice as required under subsection (1) of this section.

(12) The Department of Justice shall give credit for payments not made to the department:

(a) When payments are not assigned to this or another state and the obligee and obligor agree in writing that specific payments were made and should be credited;

(b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn written statements that specific payments were made, canceled checks or other substantial evidence is presented to corroborate their statements and the obligee has been given prior written notice of any potential criminal or civil liability that may attach to an admission of the receipt of assigned support;

(c) When payments are assigned to another state and that state verifies that payments not paid to the department were received by the other state; or

(d) As provided by rule adopted under ORS 180.345.

(13) An obligor may apply to the Department of Justice for credit for payments made other than to the Department of Justice. If the obligee or other state does not provide the agreement, sworn statement or verification required by subsection (12) of this section, credit may be given pursuant to order of an administrative law judge assigned from the Office of Administrative Hearings after notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail at the address provided in the application for credit. A hearing conducted under this subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo in the circuit court.

(14) Nothing in this section precludes the Department of Justice from giving credit for payments not made to the department when there has been a judicially determined credit or satisfaction or when there has been a satisfaction of support executed by the person to whom support is owed.

(15) The Department of Justice shall adopt rules that:

(a) Direct how support payments that are made through the department are to be applied and disbursed; and

(b) Are consistent with federal regulations.

**SECTION 9.** ORS 25.075 is amended to read:

25.075. (1) Notwithstanding the provisions of ORS 25.080, the Department of Justice may enter into cooperative agreements with Indian tribes or tribal organizations within the borders of this state, if the Indian tribe or tribal organization demonstrates that the tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to:

(a) Establish [*paternity*] **parentage**;

(b) Establish, modify and enforce support orders; and

(c) Enter support orders in accordance with child support guidelines established by the tribe or organization.

(2) The agreements must provide for the cooperative delivery of child support enforcement services and for the forwarding of all child support collections pursuant to the functions performed by the tribe or organization to the department, or conversely, by the department to the tribe or organization, which shall distribute the child support collections in accordance with the agreement.

**SECTION 10.** ORS 25.082 is amended to read:

25.082. (1) When services are being provided under Title IV-D of the Social Security Act, the enforcing agency of this or any other state may subpoena financial records and other information needed to establish [*paternity*] **parentage** or to establish, modify or enforce a support order. The subpoena may be served on a party or on a public or private entity. Service of the subpoena may be by certified mail.

(2) A party or public or private entity that discloses information to the enforcing agency in compliance with a subpoena served under subsection (1) of this section is not liable to any person for any loss, damage or injury arising out of the disclosure.

(3) Upon request of an enforcing agency of another state, only a court or enforcing agency of Oregon may enforce a subpoena issued by the enforcing agency of the other state.

(4) Notwithstanding ORS 192.600, a party or public or private entity that fails without good cause to comply with a subpoena issued under this section is subject to a civil penalty not to exceed \$250. A civil penalty under this section must be imposed in the manner provided by ORS 183.745.

(5) The Department of Justice shall adopt rules to implement the provisions of this section.

**SECTION 11.** ORS 25.650 is amended to read:

25.650. (1) As used in this section, "consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(2)(a) Notwithstanding any other law, and subject to rules established by the Department of Justice, for cases in which there is past due support, the department shall:

(A) Report periodically to consumer reporting agencies the name of any obligor who is delinquent in the payment of support and the amount owed by the obligor; and

(B) Otherwise make available to a consumer reporting agency upon its request information regarding the amount of past due support owed by an obligor.

(b) The department shall provide advance notice to both the obligor and the obligee concerning the proposed reporting of information to the consumer reporting agencies. The notice must inform both parties:

(A) Of the amount of the past due support the department will report to the consumer reporting agencies;

(B) That the department will continue to report the past due support amount owed without sending additional notice to the parties;

(C) Of the obligor's right to request an administrative review within 30 days after the date of the notice; and

(D) Of the issues that may be considered on review.

(c) If an obligor requests an administrative review, the department may not report the past due support amount until the review is complete.

(d) A party may appeal a decision from the administrative review under ORS 183.484. An appeal of the decision does not stay the department from making reports to consumer reporting agencies.

(3)(a) If [paternity] **parentage** has been established and a consumer report is needed for the purpose of establishing or modifying a child support order, the administrator may request that a consumer reporting agency provide a report.

(b) At least 10 days prior to making a request under paragraph (a) of this subsection, the administrator shall notify the obligor or obligee whose report is requested, by certified or registered mail, that the report will be requested.

(4) The department shall report information under subsection (2) of this section only to a person that has furnished evidence satisfactory to the department that the person is a consumer reporting agency.

(5) When the department has made a report to a consumer reporting agency under subsection (2) of this section, the department shall promptly notify the consumer reporting agency when the department's records show that the obligor no longer owes past due support.

**SECTION 11a.** If Senate Bill 513 becomes law, section 11 of this 2017 Act (amending ORS 25.650) is repealed.

**SECTION 12.** ORS 25.750 is amended to read:

25.750. (1) All licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession or to use a particular occupational or professional title, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses or permits issued by the Department of Transportation and recreational hunting and fishing licenses, as defined by rule of the Department of Justice, are subject to suspension by the respective issuing entities upon certification to the issuing entity by the administrator that a child support case record is being maintained by the Department of Justice, that the

case is being enforced by the administrator under the provisions of ORS 25.080 and that one or both of the following conditions apply:

(a) That the party holding the license, certificate, permit or registration is in arrears under any child support judgment or order, in an amount equal to the greater of three months of support or \$2,500, and:

(A) Has not entered into an agreement with the administrator with respect to the child support obligation; or

(B) Is not in compliance with an agreement entered into with the administrator; or

(b) That the party holding the license, certificate, permit or registration has failed, after receiving appropriate notice, to comply with a subpoena or other procedural order relating to a [paternity] **parentage** or child support proceeding and:

(A) Has not entered into an agreement with the administrator with respect to compliance; or

(B) Is not in compliance with such an agreement.

(2) The Department of Justice by rule shall specify the conditions and terms of agreements, compliance with which precludes the suspension of the license, certificate, permit or registration.

**SECTION 13.** ORS 107.179 is amended to read:

107.179. (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] **parentage**, requests the court to grant joint custody of the minor children of the parties under ORS 107.105, the court, if the other party objects to the request for joint custody, shall proceed under this section. The request under this subsection must be made, in the petition or the response, or otherwise not less than 30 days before the date of trial in the case, except for good cause shown. The court in such circumstances, except as provided in subsection (3) of this section, shall direct the parties to participate in mediation in an effort to resolve their differences concerning custody. The court may order such participation in mediation within a mediation program established by the court or as conducted by any mediator approved by the court. Unless the court or the county provides a mediation service available to the parties, the court may order that the costs of the mediation be paid by one or both of the parties, as the court finds equitable upon consideration of the relative ability of the parties to pay those costs. If, after 90 days, the parties do not arrive at a resolution of their differences, the court shall proceed to determine custody.

(2) At its discretion, the court may:

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

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

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

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

(4) Communications made by or to a mediator or between parties as a part of mediation ordered under this section are privileged and are not admissible as evidence in any civil or criminal proceeding.

**SECTION 14.** ORS 107.425 is amended to read:

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

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

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

- (A) Gathering information;
- (B) Monitoring compliance with court orders;
- (C) Providing the parents, their attorneys, if any, and the court with recommendations for new or modified parenting time provisions; and
- (D) Providing parents with problem solving, conflict management and parenting time coordination services or other services approved by the court.

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

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

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

(4) The provisions of this section apply when:

- (a) A person files a domestic relations suit, as defined in ORS 107.510;
- (b) A motion to modify an existing judgment in a domestic relations suit is before the court;
- (c) A parent of a child born to [*an unmarried woman*] **a person who is not married** initiates a civil proceeding to determine custody or support under ORS 109.103;
- (d) A person petitions or files a motion for intervention under ORS 109.119;
- (e) A person or the administrator files a petition under ORS 109.125 to establish [*paternity and paternity*] **parentage and parentage** is established; or
- (f) A habeas corpus proceeding is before the court.

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

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

(7) Prior to the entry of an order, the court on its own motion or on the motion of a party may take testimony from or confer with the child or children of the marriage and may exclude from the conference the parents and other persons if the court finds that such action would be likely to be in the best interests of the child or children. However, the court shall permit an attorney for each party to attend the conference and question the child, and the conference shall be reported.

**SECTION 15.** ORS 109.012 is amended to read:

109.012. (1)(a) The expenses of a minor child and the education of the minor child are chargeable upon the property of either or both parents who have not married each other. The parents may be sued jointly or separately for the expenses and education of the minor child.

(b) This subsection applies to a *[man]* **person** who is asserted to be a parent of the minor child only when:

(A) A voluntary acknowledgment of paternity form has been filed in this or another state and the period for rescinding or challenging the voluntary acknowledgment on grounds other than fraud, duress or material mistake of fact has expired; or

(B) *[Paternity]* **Parentage** has been established pursuant to an order or judgment entered under ORS 109.124 to 109.230 or 416.430.

(c) As used in this subsection, “expenses of a minor child” includes only expenses incurred for the benefit of a minor child.

(2) Notwithstanding subsection (1) of this section, a parent is not responsible for debts contracted by the other parent after the separation of one parent from the other parent, except for debts incurred for maintenance, support and education of the minor child of the parents.

(3) For the purposes of subsection (2) of this section, parents are considered separated if they are living in separate residences without intention of reconciliation at the time the debt is incurred. The court may consider the following factors in determining whether the parents are separated, in addition to other relevant factors:

(a) Whether the parents subsequently reconciled.

(b) The number of separations and reconciliations of the parents.

(c) The length of time the parents lived apart.

(d) Whether the parents intend to reconcile.

(4) An action under this section must be commenced within the period otherwise provided by law.

**SECTION 16.** ORS 109.072 is amended to read:

109.072. (1) As used in this section:

(a) “Blood tests” has the meaning given that term in ORS 109.251.

(b)(A) “*[Paternity]* **Parentage** judgment” means a judgment or administrative order that:

*[(A)]* (i) Expressly or by inference determines the *[paternity]* **parentage** of a child, or that imposes a child support obligation based on the *[paternity]* **parentage** of a child; and

*[(B)]* (ii) Resulted from a proceeding in which blood tests were not performed and the issue of *[paternity]* **parentage** was not challenged.

(B) “**Parentage judgment**” does not include a judgment or administrative order that determines paternity or parentage of a child conceived by assisted reproduction as defined in ORS 109.239.

(c) “Petition” means a petition or motion filed under this section.

(d) “Petitioner” means the person filing a petition or motion under this section.

(2)(a) The following may file in circuit court a petition to vacate or set aside the *[paternity]* **parentage** determination of a *[paternity]* **parentage** judgment, including any child support obligations established in the *[paternity]* **parentage** judgment, and for a judgment of *[nonpaternity]* **nonparentage**:

(A) A party to the *[paternity]* **parentage** judgment.

(B) The Department of Human Services if the child is in the care and custody of the Department of Human Services under ORS chapter 419B.

(C) The Division of Child Support of the Department of Justice if the child support rights of the child or of one of the parties to the *[paternity]* **parentage** judgment have been assigned to the state.

(b) The petitioner may file the petition in the circuit court proceeding in which the *[paternity]* **parentage** judgment was entered, in a related proceeding or in a separate action. The petitioner shall attach a copy of the *[paternity]* **parentage** judgment to the petition.

(c) If the ground for the petition is that the *[paternity]* **parentage** determination was obtained by or was the result of mistake, inadvertence, surprise or excusable neglect, the petitioner may not file the petition more than one year after entry of the *[paternity]* **parentage** judgment.

(d) If the ground for the petition is that the *[paternity]* **parentage** determination was obtained by or was the result of fraud, misrepresentation or other misconduct of an adverse party, the petitioner may not file the petition more than one year after the petitioner discovers the fraud, misrepresentation or other misconduct.

(3) In the petition, the petitioner shall:

(a) Designate as parties:

(A) All persons who were parties to the *[paternity]* **parentage** judgment;

(B) The child if the child is a child attending school, as defined in ORS 107.108;

(C) The Department of Human Services if the child is in the care and custody of the Department of Human Services under ORS chapter 419B; and

(D) The Administrator of the Division of Child Support of the Department of Justice if the child support rights of the child or of one of the parties to the *[paternity]* **parentage** judgment have been assigned to the state.

(b) Provide the full name and date of birth of the child whose *[paternity]* **parentage** was determined by the *[paternity]* **parentage** judgment.

(c) Allege the facts and circumstances that resulted in the entry of the *[paternity]* **parentage** judgment and explain why the issue of *[paternity]* **parentage** was not contested.

(4) After filing a petition under this section, the petitioner shall serve a summons and a true copy of the petition on all parties as provided in ORCP 7.

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

(6) The court may order the mother, the child and the *[man]* **person** whose *[paternity]* **parentage** of the child was determined by the *[paternity]* **parentage** judgment to submit to blood tests. In deciding whether to order blood tests, the court shall consider the interests of the parties and the child and, if it is just and equitable to do so, may deny a request for blood tests. If the court orders blood tests under this subsection, the court shall order the petitioner to pay the costs of the blood tests.

(7) Unless the court finds, giving consideration to the interests of the parties and the child, that to do so would be substantially inequitable, the court shall vacate or set aside the *[paternity]* **parentage** determination of the *[paternity]* **parentage** judgment, including provisions imposing child support obligations, and enter a judgment of *[nonpaternity]* **nonparentage** if the court finds by a preponderance of the evidence that:

(a) The *[paternity]* **parentage** determination was obtained by or was the result of:

(A) Mistake, inadvertence, surprise or excusable neglect; or

(B) Fraud, misrepresentation or other misconduct of an adverse party;  
(b) The mistake, inadvertence, surprise, excusable neglect, fraud, misrepresentation or other misconduct was discovered by the petitioner after the entry of the *[paternity]* **parentage** judgment; and

(c)(A) Blood tests establish that the *[man]* **person** is not the biological *[father]* **parent** of the child **and the parentage determination was based on biological parentage; or**

**(B) The parentage determination was not based on biological parentage.**

(8) If the court finds that the *[paternity]* **parentage** determination of a *[paternity]* **parentage** judgment was obtained by or was the result of fraud, the court may vacate or set aside the *[paternity]* **parentage** determination regardless of whether the fraud was intrinsic or extrinsic.

(9) If the court finds, based on blood test evidence, that the *[man]* **person** may be the biological *[father]* **parent** of the child and that the cumulative paternity **or parentage** index based on the blood test evidence is 99 or greater, the court shall deny the petition.

(10) The court may grant the relief authorized by this section upon a party's default, or by consent or stipulation of the parties, without blood test evidence.

(11) A judgment entered under this section vacating or setting aside the *[paternity]* **parentage** determination of a *[paternity]* **parentage** judgment and determining *[nonpaternity]* **nonparentage**:

(a) Shall contain the full name and date of birth of the child whose *[paternity]* **parentage** was established or declared by the *[paternity]* **parentage** judgment.

(b) Shall vacate and terminate any ongoing and future child support obligations arising from or based on the *[paternity]* **parentage** judgment.

(c) May vacate or deem as satisfied, in whole or in part, unpaid child support obligations arising from or based on the *[paternity]* **parentage** judgment.

(d) May not order restitution from the state for any sums paid to or collected by the state for the benefit of the child.

(12) If the court vacates or sets aside the *[paternity]* **parentage** determination of a *[paternity]* **parentage** judgment under this section and enters a judgment of *[nonpaternity]* **nonparentage**, the petitioner shall send a court-certified true copy of the judgment entered under this section to the State Registrar of the Center for Health Statistics and to the Department of Justice as the state disbursement unit. Upon receipt of the court-certified true copy of the judgment entered under this section, the state registrar shall correct any records maintained by the state registrar that indicate that the *[male]* party to the *[paternity]* **parentage** judgment is the *[father]* **parent** of the child.

(13) The court may award to the prevailing party a judgment for reasonable attorney fees and costs, including the cost of any blood tests ordered by the court and paid by the prevailing party.

(14) A judgment entered under this section vacating or setting aside the *[paternity]* **parentage** determination of a *[paternity]* **parentage** judgment and determining *[nonpaternity]* **nonparentage** is not a bar to further proceedings to determine *[paternity]* **parentage**, as otherwise allowed by law.

(15) If a *[man]* **person** whose *[paternity]* **parentage** of a child has been determined by a *[paternity]* **parentage** judgment has died, an action under this section may not be initiated by or on behalf of the estate of the *[man]* **person**.

(16) This section does not limit the authority of the court to vacate or set aside a judgment under ORCP 71, to modify a judgment within a reasonable period, to entertain an independent action to relieve a party from a judgment, to vacate or set aside a judgment for fraud upon the court or to render a declaratory judgment under ORS chapter 28.

(17) This section shall be liberally construed to the end of achieving substantial justice.

**SECTION 17.** ORS 109.073 is amended to read:

109.073. Except as otherwise provided in ORS 25.020, the final four digits of the Social Security number of a parent who is subject to a *[paternity]* **parentage** determination pursuant to ORS [109.070 (1)(d), (e), (f) or (g) or] 416.400 to 416.465 **or section 2 (1)(e) or (g) of this 2017 Act** shall be included in the order, judgment or other declaration establishing paternity.

**SECTION 18.** ORS 109.092 is amended to read:

109.092. When it is determined that a woman is pregnant with a child, the woman and any man to whom she is not married and with whom she engaged in sexual intercourse at approximately the time of conception have an obligation to recognize that the man may be the other person responsible for the conception. During the months of pregnancy, the man may join the woman in acknowledging paternity and assuming the rights and duties of expectant parenthood. If the man acknowledges paternity of the expected child and the woman denies that he is the father or refuses to join him in acknowledging paternity, the man may seek relief under ORS 109.125. If the woman wants the man to join her in acknowledging his paternity of the expected child and the man denies that he is the father or refuses to join her in acknowledging paternity, the woman may seek relief under ORS 109.125. If after the birth of the child the mother decides to surrender the child for adoption and paternity has not been acknowledged as provided in [ORS 109.070 (1)(e)] **section 2 (1)(e) of this 2017 Act** or the putative father has not asserted his rights in filiation proceedings, the mother has the right without the consent of the father to surrender the child as provided in ORS 418.270 or to consent to the child's adoption.

**SECTION 19.** ORS 109.094 is amended to read:

109.094. Upon the [paternity] **parentage** of a child being established in the proceedings, [the father] **a parent** shall have the same rights as a [father] **parent** who is or was married to the mother of the child. The clerk of the court shall certify the fact of [paternity] **parentage** to the Center for Health Statistics of the Oregon Health Authority, and the Center for Health Statistics shall amend a record of live birth for the child and issue a new certified copy of the record of live birth for the child.

**SECTION 20.** ORS 109.096 is amended to read:

109.096. (1) When the [paternity] **parentage** of a child has not been established under [ORS 109.070] **section 2 of this 2017 Act**, the putative father is entitled to reasonable notice in adoption or other court proceedings concerning the custody of the child, except for juvenile court proceedings, if the petitioner knows, or by the exercise of ordinary diligence should have known:

(a) That the child resided with the putative father at any time during the 60 days immediately preceding the initiation of the proceeding, or at any time since the child's birth if the child is less than 60 days old when the proceeding is initiated; or

(b) That the putative father repeatedly has contributed or tried to contribute to the support of the child during the year immediately preceding the initiation of the proceeding, or during the period since the child's birth if the child is less than one year old when the proceeding is initiated.

(2) Except as provided in subsection (3) or (4) of this section, a verified statement of the mother of the child or of the petitioner, or an affidavit of another person with knowledge of the facts, filed in the proceeding and asserting that the child has not resided with the putative father, as provided in subsection (1)(a) of this section, and that the putative father has not contributed or tried to contribute to the support of the child, as provided in subsection (1)(b) of this section, is sufficient proof to enable the court to grant the relief sought without notice to the putative father.

(3) The putative father is entitled to reasonable notice in a proceeding for the adoption of the child if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with the Center for Health Statistics of the Oregon Health Authority prior to the child's being placed in the physical custody of a person or persons for the purpose of adoption by them. If the notice of the initiation of filiation proceedings was not on file at the time of the placement, the putative father is barred from contesting the adoption proceeding.

(4) Except as otherwise provided in subsection (3) of this section, the putative father is entitled to reasonable notice in court proceedings concerning the custody of the child, other than juvenile court proceedings, if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with the Center for Health Statistics prior to the initiation of the proceedings.

(5) Notice under this section is not required to be given to a putative father who was a party to filiation proceedings under ORS 109.125 that were dismissed or resulted in a finding that he was not the father of the child.

(6) The notice required under this section shall be given in the manner provided in ORS 109.330.

(7) No notice given under this section need disclose the name of the mother of the child.

(8) A putative father has the primary responsibility to protect his rights, and nothing in this section shall be used to set aside an act of a permanent nature including, but not limited to, adoption or termination of parental rights, unless the father establishes within one year after the entry of the final judgment or order fraud on the part of a petitioner in the proceeding with respect to matters specified in subsections (1) to (5) of this section.

**SECTION 21.** ORS 109.098 is amended to read:

109.098. (1) If a putative father of a child by due appearance in a proceeding of which he is entitled to notice under ORS 109.096 objects to the relief sought, the court:

(a) May stay the adoption or other court proceeding to await the outcome of the filiation proceedings only if notice of the initiation of filiation proceedings was on file as required by ORS 109.096 (3) or (4).

(b) Shall, if filiation proceedings are not pending, inquire as to the paternity of the child, the putative father's past endeavors to fulfill his obligation to support the child and to contribute to the pregnancy-related medical expenses, the period that the child has lived with the putative father, the putative father's fitness to care for and rear the child and whether the putative father is willing to be declared the father of the child and to assume the responsibilities of a father.

(2) If after inquiry under subsection (1)(b) of this section the court finds:

(a) That the putative father is the father of the child and is fit and willing to assume the responsibilities of a father, it shall have the power:

(A) Upon the request of the putative father, to declare his paternity and to certify the fact of paternity in the manner provided in ORS 109.094; and

(B) To award custody of the child to *[the mother or the father]* **either parent** as may be in the best interests of the child, or to take any other action which the court may take if the parents are or were married to each other.

(b) That the putative father is not the father of the child, it may grant the relief sought in the proceeding without the putative father's consent.

(c) That the putative father is the natural father of the child but is not fit or willing to assume the responsibilities of a father, it may grant the relief sought in the proceeding or any other relief that the court deems to be in the best interests of the child, notwithstanding the father's objection.

(3) If a putative father of a child is given the notice of a proceeding required by ORS 109.096 and he fails to enter due appearance and to object to the relief sought therein within the time specified in the notice, the court may grant the relief sought without the putative father's consent.

**SECTION 22.** ORS 109.103 is amended to read:

109.103. (1) If a child is born to an unmarried *[woman and paternity]* **person and parentage** has been established under *[ORS 109.070]* **section 2 of this 2017 Act**, or if a child is born to a married *[woman by a man]* **person by a person** other than *[her husband]* **the birth mother's spouse** and *[the man's paternity]* **parentage between the person and the child** has been established under *[ORS 109.070]* **section 2 of this 2017 Act**, either parent may initiate a civil proceeding to determine the custody or support of, or parenting time with, the child. The proceeding shall be brought in the circuit court of the county in which the child resides or is found or in the circuit court of the county in which either parent resides. The parents have the same rights and responsibilities regarding the custody and support of, and parenting time with, their child that married or divorced parents would have, and the provisions of ORS 107.094 to 107.449 that relate to custody, support and parenting time, the provisions of ORS 107.755 to 107.795 that relate to mediation procedures, and the provisions of ORS 107.810, 107.820 and 107.830 that relate to life insurance, apply to the proceeding.

(2) A parent may initiate the proceeding by filing with the court a petition setting forth the facts and circumstances upon which the parent relies. The parent shall state in the petition, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child, including one brought under ORS 109.100, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.503, involving the child.

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

(4) When a parent initiates a proceeding under this section and the child support rights of one of the parents or of the child have been assigned to the state, the parent initiating the proceeding shall serve, by mail or personal delivery, a copy of the petition on the Administrator of the Division of Child Support or on the branch office providing support services to the county in which the suit is filed.

(5)(a) After a petition is filed under this section and upon service of summons and petition upon the respondent as provided in ORCP 7, a restraining order is issued and in effect against the petitioner and the respondent until a final judgment is issued, until the petition is dismissed or until further order of the court, restraining the petitioner and the respondent from:

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

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

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

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

(d) A copy of the restraining order issued under this subsection must be attached to the summons.

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

(A) Criminal prosecution based on the violation; or

(B) Imposition of punitive sanctions under ORS 33.065 based on the violation.

**SECTION 23.** ORS 109.145 is amended to read:

109.145. If a respondent fails to answer or fails to appear at trial, the court shall have the power to proceed accordingly. In such case, the court may make a determination of [*paternity*] **parentage** and may impose such obligations on the respondent as it deems reasonable. In all such cases corroborating evidence in addition to the testimony of the parent or expectant parent shall be required to establish [*paternity*] **parentage** and the court may, in its discretion, order such investigation or the production of such evidence as it deems appropriate to establish a proper basis for relief. The testimony of the parent or expectant parent and the corroborating evidence may be presented by affidavit.

**SECTION 24.** ORS 109.155 is amended to read:

109.155. (1) The court, in a private hearing, shall first determine the issue of [*paternity*] **parentage**. If the respondent admits the [*paternity*] **parentage**, the admission shall be reduced to writing, verified by the respondent and filed with the court. If the [*paternity*] **parentage** is denied, corroborating evidence, in addition to the testimony of the parent or expectant parent, shall be required.

(2) If the court finds, from a preponderance of the evidence, that the petitioner or the respondent is the father of the child who has been, or who may be born out of wedlock, the court shall then proceed to a determination of the appropriate relief to be granted. The court may approve any settlement agreement reached between the parties and incorporate the agreement into any judgment

rendered, and the court may order such investigation or the production of such evidence as the court deems appropriate to establish a proper basis for relief.

(3) The court, in its discretion, may postpone the hearing from time to time to facilitate any investigation or the production of such evidence as it deems appropriate.

(4) The court may order either parent to pay such sum as the court deems appropriate for the past and future support and maintenance of the child during the child's minority and while the child is attending school, as defined in ORS 107.108, and the reasonable and necessary expenses incurred or to be incurred in connection with prenatal care, expenses attendant with the birth and postnatal care. The court may grant the prevailing party reasonable costs of suit, which may include expert witness fees, and reasonable attorney fees at trial and on appeal. The provisions of ORS 107.108 apply to an order entered under this section for the support of a child attending school.

(5) An affidavit certifying the authenticity of documents substantiating expenses set forth in subsection (4) of this section is prima facie evidence to establish the authenticity of the documents.

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

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

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

(b) In a proceeding under this section, the court may enforce the terms set forth in a stipulated judgment of *[paternity]* **parentage** signed by the parties, a judgment of *[paternity]* **parentage** resulting from a settlement on the record or a judgment of *[paternity]* **parentage** incorporating a settlement agreement:

(A) As contract terms using contract remedies;

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

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

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

(d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate proceeding, to file a motion to set aside, alter or modify a judgment under ORS 109.165 or to seek enforcement of an ancillary agreement to the judgment.

(7) If *[a man's paternity of a child]* **parentage between a person and a child** has been established under *[ORS 109.070]* **section 2 of this 2017 Act** and the *[paternity]* **parentage** has not been disestablished before proceedings are initiated under ORS 109.125, the court may not render a judgment under ORS 109.124 to 109.230 establishing *[another man's paternity of the child]* **parentage between another person and the child** unless the judgment also disestablishes the *[paternity]* **parentage** established under *[ORS 109.070]* **section 2 of this 2017 Act**.

**SECTION 25.** ORS 109.175 is amended to read:

109.175. (1) If *[paternity]* **parentage** of a child born out of wedlock is established pursuant to a petition filed under ORS 109.125 or an order or judgment entered pursuant to ORS 109.124 to 109.230 or ORS 416.400 to 416.465, or if *[paternity]* **parentage** is established by the filing of a voluntary acknowledgment of paternity as provided by *[ORS 109.070 (1)(e)]* **section 2 (1)(e) of this 2017 Act**, the parent with physical custody at the time of filing of the petition or the notice under ORS 416.415, or the parent with physical custody at the time of the filing of the voluntary acknowledgment of paternity, has sole legal custody until a court specifically orders otherwise. The first time the court determines who should have legal custody, neither parent shall have the burden of proving a change of circumstances. The court shall give primary consideration to the best interests and welfare of the child and shall consider all the standards set out in ORS 107.137.

(2) In any proceeding under this section, the court may cause an investigation, examination or evaluation to be made under ORS 107.425 or may appoint an individual or a panel or may designate a program to assist the court in creating parenting plans or resolving disputes regarding parenting time and to assist parents in creating and implementing parenting plans under ORS 107.425 (3).

**SECTION 26.** ORS 109.251 is amended to read:

109.251. As used in ORS 109.250 to 109.262, “blood tests” includes any test for genetic markers to determine [*paternity*] **parentage** of a type generally acknowledged as reliable by accreditation bodies designated by the Oregon Health Authority in compliance with the United States Secretary of Health and Human Services, and performed by a laboratory approved by such accreditation body. “Blood tests” includes but is not limited to the Human Leucocyte Antigen Test, the deoxyribonucleic acid test and any test that extracts genetic material from any human tissue.

**SECTION 27.** ORS 109.252 is amended to read:

109.252. (1) Unless the court or administrator finds good cause not to proceed in a proceeding under ORS 109.125 to 109.230 and 416.400 to 416.465, in which [*paternity*] **parentage** is a relevant fact, the court or administrator, as defined in ORS 25.010, upon the court’s or administrator’s own initiative or upon suggestion made by or on behalf of any person whose blood is involved may, or upon motion of any party to the action made at a time so as not to delay the proceedings unduly shall, order the mother, child, alleged father and any other named respondent who may be the father to submit to blood tests. If any person refuses to submit to such tests, the court or administrator may resolve the question of [*paternity*] **parentage** against such person or enforce the court’s or administrator’s order if the rights of others and the interests of justice so require.

(2) When child support enforcement services are being provided under ORS 25.080, the Child Support Program shall pay any costs for blood tests subject to recovery from the party who requested the tests. If the original test result is contested prior to the entry of an order establishing [*paternity*] **parentage**, the court or administrator shall order additional testing upon request and advance payment by the party making the request.

**SECTION 28.** ORS 109.254 is amended to read:

109.254. (1) The tests shall be made by experts qualified as examiners of genetic markers who shall be appointed by the court or administrator, as defined in ORS 25.010. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of genetic markers, perform independent tests under order of the court or administrator, the results of which may be offered in evidence. The number and qualifications of such experts shall be determined by the court or administrator.

(2) The blood test results and the conclusions and explanations of the blood test experts are admissible as evidence of [*paternity*] **parentage** without the need for foundation testimony or other proof of authenticity or accuracy, unless a written challenge to the testing procedure or the results of the blood test has been filed with the court and delivered to opposing counsel at least 10 days before any hearing set to determine the issue of [*paternity*] **parentage**. Failure to make such timely challenge constitutes a waiver of the right to have the experts appear in person and is not grounds for a continuance of the hearing to determine [*paternity*] **parentage**. A copy of the results, conclusions and explanations must be furnished to both parties or their counsel at least 20 days before the date of the hearing for this subsection to apply. The court for good cause or the parties may waive the time limits established by this subsection.

(3) An affidavit documenting the chain of custody of the specimens is prima facie evidence to establish the chain of custody.

**SECTION 29.** ORS 109.259 is amended to read:

109.259. Notwithstanding the objections of a party to an order that seeks to establish [*paternity*] **parentage**, if the blood tests conducted under ORS 109.250 to 109.262 result in a cumulative paternity index of 99 or greater, the evidence of the blood tests together with the testimony of a parent is a sufficient basis upon which to presume paternity for establishing temporary support. Upon the motion of a party, the court shall enter a temporary order requiring the alleged father to

provide support pending the determination of parentage by the court. In determining the amount of support, the court shall use the formula established under ORS 25.275.

**SECTION 30.** ORS 109.264 is amended to read:

109.264. In any action under ORS 109.250 to 109.262, the mother, **the** putative father, **if any, the alleged parent** and the state are parties.

**SECTION 31.** ORS 109.315 is amended to read:

109.315. (1) A petition for adoption of a minor child must be signed by the petitioner and, unless stated in the petition why the information or statement is omitted, must contain the following:

- (a) The full name of the petitioner;
- (b) The state and length of residency in the state of the petitioner and information sufficient to establish that the residency requirement of ORS 109.309 (2) has been met;
- (c) The current marital or domestic partnership status of the petitioner;
- (d) An explanatory statement as to why the petitioner is of sufficient ability to bring up the minor child and furnish suitable nurture and education sufficient for judgment to be entered under ORS 109.350;
- (e) Information sufficient for the court to establish that the petitioner has complied with the jurisdictional and venue requirements of ORS 109.309 (4) and (5);
- (f) The full name, gender and date and place of birth of the minor child;
- (g) The marital or domestic partnership status of the biological mother at the time of conception, at the date of birth and during the 300 days prior to the date of birth of the minor child;
- (h) A statement that the minor child is not an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) or, if the Indian Child Welfare Act applies:
  - (A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and
  - (B) A statement of the efforts to comply with the placement preferences of the Indian Child Welfare Act or the placement preferences of the appropriate Indian tribe;
- (i) The name and relationship to the minor child of any person who has executed a written release or surrender of parental rights or of rights of guardianship of the minor child as provided by ORS 418.270 and the date of the release or surrender;
- (j) The name and relationship to the minor child of any person who has given written consent as required under ORS 109.321, and the date the consent was given;
- (k) The name and relationship to the minor child of any person or entity for whom the written consent requirement under ORS 109.321 is waived or not required as provided in ORS 109.322, 109.323, 109.324, 109.325, 109.326 and 109.327 or whose written consent may be substituted for the written consent requirement under ORS 109.321 as provided in ORS 109.322, 109.323, 109.324, 109.325, 109.326, 109.327, 109.328 and 109.329;
- (L) The name and relationship to the minor child of all persons who have signed and attested to:
  - (A) A written certificate of irrevocability and waiver as provided in ORS 109.321 (2); or
  - (B) A written certificate stating that a release or surrender under ORS 418.270 (4) shall become irrevocable as soon as the child is placed for the purpose of adoption;
- (m) A statement of the facts and circumstances under which the petitioner obtained physical custody of the minor child, including date of placement with the petitioner for adoption and the name and relationship to the minor child of the individual or entity placing the minor child with the petitioner;
- (n) The length of time that a minor child has been in the physical custody of the petitioner and, if the minor child is not in the physical custody of the petitioner, the reason why, and the date and manner in which the petitioner will obtain physical custody of the minor child;
- (o) Whether a continuing contact agreement exists under ORS 109.305, including names of the parties to the agreement and date of execution;
- (p) A statement establishing that the requirements of ORS 109.353 regarding advisement about the voluntary adoption registry and the registry's services have been met;

(q) A statement establishing that the requirements of ORS 109.346 regarding notice of right to counseling sessions have been met;

(r) A statement that the information required by the Uniform Child Custody Jurisdiction and Enforcement Act under ORS 109.701 to 109.834 has been provided in the Adoption Summary and Segregated Information Statement under ORS 109.317;

(s) A statement that the Interstate Compact on the Placement of Children does or does not apply and, if applicable, a statement of the efforts undertaken to comply with the compact;

(t) Unless waived, a statement that a current home study was completed in compliance with ORS 109.309 (7); and

(u) A declaration made under penalty of perjury that the petition, and the information and statements contained in the petition, are true to the best of the petitioner's knowledge and belief and that the petitioner understands the petition, and information and statements contained in the petition, may be used as evidence in court and are subject to penalty for perjury.

(2) A petition filed under ORS 109.309 must, if applicable, request the following:

(a) Entry of a general judgment of adoption;

(b) That the petitioner be permitted to adopt the minor child as the child of the petitioner for all legal intents and purposes;

(c) A finding that the court has jurisdiction over the adoption proceeding, the parties and the minor child;

(d) With respect to the appropriate persons, the termination of parental rights or a determination of [*nonpaternity*] **nonparentage**;

(e) Approval of a change to the minor child's name;

(f) A finding that a continuing contact agreement entered into under ORS 109.305 is in the best interests of the minor child and that, if the minor child is 14 years of age or older, the minor child has consented to the agreement, and that the court incorporate the continuing contact agreement by reference into the adoption judgment;

(g) That the court require preparation of and certify a report of adoption as provided in ORS 432.223;

(h) That all records, papers and files in the record of the adoption case be sealed as provided under ORS 109.319; and

(i) Any other relief requested by the petitioner.

(3) A petition filed under ORS 109.309 must, if applicable, have the following attached as exhibits:

(a) Any written release or surrender of the minor child for adoption, or a written disclaimer of parental rights;

(b) Any written consent to the adoption;

(c) Any certificate of irrevocability and waiver;

(d) Any continuing contact agreement under ORS 109.305;

(e) The written disclosure statement required under ORS 109.311; and

(f) Any other supporting documentation necessary to comply with the petition requirements in this section and ORS 109.309.

(4) The petition and documents filed as exhibits under subsection (3) of this section are confidential and may not be inspected or copied except as provided under ORS 109.305 to 109.410 and 109.425 to 109.507.

(5)(a) Within 30 days after being filed with the court, the petitioner shall serve copies of the petition, the documents filed as exhibits under subsection (3) of this section and the Adoption Summary and Segregated Information Statement described in ORS 109.317, including any amendments and exhibits attached to the statement, on the Director of Human Services by either registered or certified mail with return receipt or personal service.

(b) In the case of an adoption in which one of the child's [*biological or adoptive*] parents retains parental rights **as established under section 2 of this 2017 Act**, the petitioner shall also serve the petition by either registered or certified mail with return receipt or personal service:

(A) On all persons whose consent to the adoption is required under ORS 109.321 unless the person's written consent is filed with the court; and

(B) On the parents of the party whose parental rights would be terminated, if the names and addresses are known or may be readily ascertained by the petitioner.

(c) When a parent of the child is deceased or incapacitated, the petitioner shall also serve the petition on the parents of the deceased or incapacitated parent, if the names and addresses are known or may be readily ascertained by the petitioner. As used in this paragraph:

(A) "Incapacitated" means a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements for the person's physical health or safety.

(B) "Meet the essential requirements for the person's physical health or safety" means those actions necessary to provide health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.

(d) Service required by this subsection may be waived by the court for good cause.

**SECTION 32.** ORS 109.321 is amended to read:

109.321. (1) Except as provided in ORS 109.323 to 109.329, consent in writing to the adoption of a minor child pursuant to a petition filed under ORS 109.309 is required to be given by the following:

(a) The parents of the child, or the survivor of them.

(b) The guardian of the child, if the child has no living parent.

(c) The next of kin in this state, if the child has no living parent and no guardian.

(d) Some suitable person appointed by the court to act in the proceeding as next friend of the child to give or withhold consent, if the child has no living parent and no guardian or next of kin qualified to consent.

(2)(a) A person who gives consent to adoption under subsection (1) of this section may agree concurrently or subsequently to the giving of such consent that the consent shall be or become irrevocable, and may waive such person's right to a personal appearance in court, by a duly signed and attested certificate. The certificate of irrevocability and waiver shall be in effect when the following are completed:

(A) The child is placed for the purpose of adoption in the physical custody of the person or persons to whom the consent is given;

(B) The person or persons to whom consent for adoption is given have filed a petition to adopt the child in a court of competent jurisdiction;

(C) The court has entered an order appointing the petitioner or some other suitable person as guardian of the child pursuant to ORS 109.335;

(D) The Department of Human Services, an Oregon licensed adoption agency or an attorney who is representing the adoptive parents has filed either a department or an Oregon licensed adoption agency home study with the court approving the petitioner or petitioners as potential adoptive parents or the department has notified the court that the filing of such study has been waived;

(E) Information about the child's social, medical and genetic history required in ORS 109.342 has been provided to an attorney or the department or an Oregon licensed adoption agency by the person giving consent to the adoption; and

(F) The person signing the certificate of irrevocability and waiver has been given an explanation by an attorney who represents the person and who does not also represent the adoptive family, by the department or by an Oregon licensed adoption agency of the consequences of signing the certificate.

(b) Upon the fulfillment of the conditions in paragraph (a) of this subsection, the consent for adoption may not be revoked unless fraud or duress is proved with respect to any material fact.

(3) Consent to the adoption of an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) shall not be valid unless the requirements of the Indian Child Welfare Act are met. In accordance with the Indian Child Welfare Act, a certificate of irrevocability is not valid for the adoption of an Indian child.

(4) As used in this section, “parent” means a person whose parentage has been established pursuant to section 2 of this 2017 Act.

**SECTION 33.** ORS 109.326 is amended to read:

109.326. (1) If the mother of a child was married at the time of the conception or birth of the child, and it has been determined pursuant to [ORS 109.070] **section 2 of this 2017 Act** or judicially determined that [her] **the mother’s [husband] spouse** at such time or times was not the [father] **parent** of the child, the [husband’s] **spouse’s** authorization or waiver is not required in adoption, juvenile court or other proceedings concerning the custody of the child.

(2) If [paternity] **parentage** of the child has not been determined, a determination of [nonpaternity] **nonparentage** may be made by any court having adoption, divorce or juvenile court jurisdiction. The testimony or affidavit of the mother or the [husband] **spouse** or another person with knowledge of the facts filed in the proceeding constitutes competent evidence before the court making the determination.

(3) Before making the determination of [nonpaternity] **nonparentage**, the petitioner shall serve on the [husband] **spouse** a summons and a true copy of a motion and order to show cause why a judgment of [nonpaternity] **nonparentage** should not be entered if:

(a) There has been a determination by any court of competent jurisdiction that the [husband] **spouse** is the [father] **parent** of the child;

(b) The child resided with the [husband] **spouse** at any time since the child’s birth; or

(c) The [husband] **spouse** repeatedly has contributed or tried to contribute to the support of the child.

(4) When the petitioner is required to serve the [husband] **spouse** with a summons and a motion and order to show cause under subsection (3) of this section, service must be made in the manner provided in ORCP 7 D and E, except as provided in subsection (6) of this section. Service must be proved as required in ORCP 7 F. The summons and the motion and order to show cause need not contain the names of the adoptive parents.

(5) A summons under subsection (3) of this section must contain:

(a) A statement that if the [husband] **spouse** fails to file a written answer to the motion and order to show cause within the time provided, the court, without further notice and in the [husband’s] **spouse’s** absence, may take any action that is authorized by law, including but not limited to entering a judgment of [nonpaternity] **nonparentage** on the date the answer is required or on a future date.

(b) A statement that:

(A) The [husband] **spouse** must file with the court a written answer to the motion and order to show cause within 30 days after the date on which the [husband] **spouse** is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting.

(B) In the answer, the [husband] **spouse** must inform the court and the petitioner of the [husband’s] **spouse’s** telephone number or contact telephone number and the [husband’s] **spouse’s** current residence, mailing or contact address in the same state as the [husband’s] **spouse’s** home. The answer may be in substantially the following form:

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IN THE CIRCUIT COURT OF  
THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_, )  
Petitioner, ) NO. \_\_\_\_\_  
                  ) )  
                  ) ANSWER  
and              ) )  
                  ) )

\_\_\_\_\_, )  
Respondent. )

[ ] I consent to the entry of a judgment of *[nonpaternity]* **nonparentage**.

[ ] I do not consent to the entry of a judgment of *[nonpaternity]* **nonparentage**. The court should not enter a judgment of *[nonpaternity]* **nonparentage** for the following reasons:

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\_\_\_\_\_  
Signature

DATE: \_\_\_\_\_

ADDRESS OR CONTACT ADDRESS:

\_\_\_\_\_

TELEPHONE OR CONTACT TELEPHONE:

\_\_\_\_\_

(c) A notice that, if the *[husband]* **spouse** answers the motion and order to show cause, the court:

(A) Will schedule a hearing to address the motion and order to show cause and, if appropriate, the adoption petition;

(B) Will order the *[husband]* **spouse** to appear personally; and

(C) May schedule other hearings related to the petition and may order the *[husband]* **spouse** to appear personally.

(d) A notice that the *[husband]* **spouse** has the right to be represented by an attorney. The notice must be in substantially the following form:

\_\_\_\_\_  
You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the circuit court immediately. Phone \_\_\_\_\_ for further information.

(e) A statement that the *[husband]* **spouse** has the responsibility to maintain contact with the *[husband's]* **spouse's** attorney and to keep the attorney advised of the *[husband's]* **spouse's** whereabouts.

(6) A *[husband]* **spouse** who is served with a summons and a motion and order to show cause under this section shall file with the court a written answer to the motion and order to show cause within 30 days after the date on which the *[husband]* **spouse** is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting. In the answer, the *[husband]* **spouse** shall inform the court and the petitioner of the *[husband's]* **spouse's** telephone number or contact telephone number and current address, as

defined in ORS 25.011. The answer may be in substantially the form described in subsection (5) of this section.

(7) If the [husband] **spouse** requests the assistance of appointed counsel and the court determines that the [husband] **spouse** is financially eligible, the court shall appoint an attorney to represent the [husband] **spouse** at state expense. Appointment of counsel under this subsection is subject to ORS 135.055, 151.216 and 151.219. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines adopted under ORS 151.216.

(8) If the [husband] **spouse** files an answer as required under subsection (6) of this section, the court, by oral order made on the record or by written order provided to the [husband] **spouse** in person or mailed to the [husband] **spouse** at the address provided by the [husband] **spouse**, shall:

(a) Inform the [husband] **spouse** of the time, place and purpose of the next hearing or hearings related to the motion and order to show cause or the adoption petition;

(b) Require the [husband] **spouse** to appear personally at the next hearing or hearings related to the motion and order to show cause or the adoption petition; and

(c) Inform the [husband] **spouse** that, if the [husband] **spouse** fails to appear as ordered for any hearing related to the motion and order to show cause or the adoption petition, the court, without further notice and in the [husband's] **spouse's** absence, may take any action that is authorized by law, including but not limited to entering a judgment of [nonpaternity] **nonparentage** on the date specified in the order or on a future date, without the consent of the [husband] **spouse**.

(9) If a [husband] **spouse** fails to file a written answer as required in subsection (6) of this section or fails to appear for a hearing related to the motion and order to show cause or the petition as directed by court order under this section, the court, without further notice to the [husband] **spouse** and in the [husband's] **spouse's** absence, may take any action that is authorized by law, including but not limited to entering a judgment of [nonpaternity] **nonparentage**.

(10) There shall be sufficient proof to enable the court to grant the relief sought without notice to the [husband] **spouse** provided that the affidavit of the mother of the child, of the [husband] **spouse** or of another person with knowledge of the facts filed in the proceeding states or the court finds from other competent evidence:

(a) That the mother of the child was not cohabiting with [her] **the mother's** [husband] **spouse** at the time of conception of the child and that the [husband] **spouse** is not the [father] **parent** of the child;

(b) That the [husband] **spouse** has not been judicially determined to be the [father] **parent of the child**;

(c) That the child has not resided with the [husband] **spouse**; and

(d) That the [husband] **spouse** has not contributed or tried to contribute to the support of the child.

(11) Notwithstanding ORS 109.070 (1)(a), service of a summons and a motion and order to show cause on the [husband] **spouse** under subsection (3) of this section is not required and the [husband's] **spouse's** consent, authorization or waiver is not required in adoption proceedings concerning the child unless the [husband] **spouse** has met the requirements of subsection (3)(a), (b) or (c) of this section.

(12) A [husband] **spouse** who was not cohabiting with the mother at the time of the child's conception has the primary responsibility to protect the [husband's] **spouse's** rights.

(13) Nothing in this section shall be used to set aside an act of a permanent nature, including but not limited to adoption, unless the [father] **parent** establishes, within one year after the entry of the order or general judgment, as defined in ORS 18.005, fraud on the part of the petitioner with respect to the matters specified in subsection (10)(a), (b), (c) or (d) of this section.

**SECTION 34.** ORS 109.704 is amended to read:

109.704. As used in ORS 109.701 to 109.834:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained 18 years of age.

(3) “Child custody determination” means a judgment or other order of a court providing for the legal custody, physical custody, parenting time or visitation with respect to a child. “Child custody determination” includes a permanent, temporary, initial and modification order. “Child custody determination” does not include an order relating to child support or other monetary obligation of an individual.

(4) “Child custody proceeding” means a proceeding in which legal custody, physical custody, parenting time or visitation with respect to a child is an issue. “Child custody proceeding” includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, [paternity] **parentage**, termination of parental rights and protection from domestic violence in which the issue may appear. “Child custody proceeding” does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under ORS 109.774 to 109.827.

(5) “Commencement” means the filing of the first pleading in a proceeding.

(6) “Court” means an entity authorized under the law of a state to establish, enforce or modify a child custody determination.

(7) “Home state” means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, “home state” means the state in which the child lived from birth with any of the persons mentioned. Any temporary absence of any of the mentioned persons is part of the period.

(8) “Initial determination” means the first child custody determination concerning a particular child.

(9) “Issuing court” means the court that makes a child custody determination for which enforcement is sought under ORS 109.701 to 109.834.

(10) “Issuing state” means the state in which a child custody determination is made.

(11) “Modification” means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) “Person” means an individual, corporation, public corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or a governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(13) “Person acting as a parent” means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) “Physical custody” means the physical care and supervision of a child.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Tribe” means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(17) “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

**SECTION 35.** ORS 112.105 is amended to read:

112.105. (1) For all purposes of intestate succession, full effect shall be given to all relationships as described in ORS 109.060, except as otherwise provided by law in case of adoption.

(2) For all purposes of intestate succession and for those purposes only, before the relationship of [father] **parent** and child and other relationships dependent upon the establishment of [paternity] **parentage** shall be given effect under subsection (1) of this section[.];

(a) The [paternity] **parentage** of the child shall have been established under [ORS 109.070] **section 2 of this 2017 Act** during the lifetime of the child[.]; **and**

**(b) The parent must have acknowledged being the parent of the child in writing, signed by the parent during the lifetime of the child.**

**SECTION 36.** ORS 163.565 is amended to read:

163.565. (1) Proof that a child was born [to a woman] during the time a [man] **person** lived and cohabited with [her] **the child's mother**, or held [her] **the child's mother** out as [his] **that person's** spouse in a marriage, is prima facie evidence that [he] **the person** is the [father] **parent** of the child. This subsection does not exclude any other legal evidence tending to establish the parental relationship.

(2) No provision of law prohibiting the disclosure of confidential communications between spouses in a marriage apply to prosecutions for criminal nonsupport. A spouse is a competent and compellable witness for or against either party.

**SECTION 37.** ORS 180.320 is amended to read:

180.320. (1) All state agencies, district attorneys and all police officers of the state, county or any municipality, university or court thereof, shall cooperate with the Division of Child Support of the Department of Justice in furnishing and making available information, records and documents necessary to assist in establishing or enforcing support obligations or [paternity] **parentage**, in performing the duties set out in ORS 25.080 and in determining the location of any absent parent or child for the purpose of enforcing any state or federal law regarding the unlawful taking or restraint of a child or for the purpose of making or enforcing a child custody determination. Notwithstanding the provisions of ORS 109.225 or 416.430 or ORS chapter 432, records pertaining to the [paternity] **parentage** of a child shall be made available upon written request of an authorized representative of the Division of Child Support. Any information obtained pursuant to this subsection is confidential, and shall be used only for the purposes set out in this subsection.

(2) Information furnished to the Division of Child Support by the Department of Revenue and made confidential by ORS 314.835 shall be used by the division and its employees solely for the purpose of enforcing the provisions of ORS 180.320 to 180.365 and shall not be disclosed or made known for any other purpose. Any person who violates the prohibition against disclosure contained in this subsection, upon conviction, is punishable as provided in ORS 314.991 (2).

**SECTION 38.** ORS 180.380 is amended to read:

180.380. (1) In addition to its other duties, powers and functions, the Division of Child Support may disclose confidential information from the Federal Parent Locator Service to an authorized person if the information is needed to:

- (a) Enforce any state or federal law regarding the unlawful taking or restraint of a child;
- (b) Make or enforce a child custody determination;
- (c) Establish [paternity] **parentage**; or
- (d) Establish, modify or enforce a child support order.

(2)(a) If the request for information is made for a purpose described in subsection (1)(a) or (b) of this section, the division may provide the most recent address and place of employment of the child or parent.

(b) If the request for information is made for a purpose described in subsection (1)(c) or (d) of this section, the division may provide the following information:

- (A) The Social Security number and address of the parent or alleged parent;
- (B) The name, address and federal employer identification number of the employer of the parent or alleged parent; and
- (C) The wages or other income from and benefits of employment of the parent or alleged parent.

(c) If there is evidence of possible domestic violence or child abuse by the individual requesting information under subsection (1) of this section, the division may disclose information under this subsection only to a court in accordance with rules adopted by the division.

(3) As used in ORS 180.320 and this section:

(a) "Authorized person" includes:

(A) Any agent or attorney of any state who has the duty or authority under the law of such state to enforce a child custody determination;

(B) Any court or any agent of the court having jurisdiction to make or enforce a judgment of [paternity] **parentage**, a judgment of support or a child custody determination;

(C) Any agent or attorney of the United States or of a state who has the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child;

(D) A state agency responsible for administering an approved child welfare plan or an approved foster care and adoption assistance plan; and

(E) A custodial parent, legal guardian or agent of a child, other than a child receiving temporary assistance for needy families, who is seeking to establish [paternity] **parentage** or to establish, modify or enforce a child support order.

(b) "Custody determination" means a judgment or other order of a court providing for the custody of, parenting time with or visitation with a child, and includes permanent and temporary orders, and initial orders and modifications.

**SECTION 39.** ORS 192.535 is amended to read:

192.535. (1) A person may not obtain genetic information from an individual, or from an individual's DNA sample, without first obtaining informed consent of the individual or the individual's representative, except:

(a) As authorized by ORS 181A.155 or comparable provisions of federal criminal law relating to the identification of persons, or for the purpose of establishing the identity of a person in the course of an investigation conducted by a law enforcement agency, a district attorney, a medical examiner or the Criminal Justice Division of the Department of Justice;

(b) For anonymous research or coded research conducted under conditions described in ORS 192.537 (2), after notification pursuant to ORS 192.538 or pursuant to ORS 192.547 (7)(b);

(c) As permitted by rules of the Oregon Health Authority for identification of deceased individuals;

(d) As permitted by rules of the Oregon Health Authority for newborn screening procedures;

(e) As authorized by statute for the purpose of establishing [paternity] **parentage**; or

(f) For the purpose of furnishing genetic information relating to a decedent for medical diagnosis of blood relatives of the decedent.

(2) Except as provided in subsection (3) of this section, a physician licensed under ORS chapter 677 shall seek the informed consent of the individual or the individual's representative for the purposes of subsection (1) of this section in the manner provided by ORS 677.097. Except as provided in subsection (3) of this section, any other licensed health care provider or facility must seek the informed consent of the individual or the individual's representative for the purposes of subsection (1) of this section in a manner substantially similar to that provided by ORS 677.097 for physicians.

(3) A person conducting research shall seek the informed consent of the individual or the individual's representative for the purposes of subsection (1) of this section in the manner provided by ORS 192.547.

(4) Except as provided in ORS 746.135 (1), any person not described in subsection (2) or (3) of this section must seek the informed consent of the individual or the individual's representative for the purposes of subsection (1) of this section in the manner provided by rules adopted by the Oregon Health Authority.

(5) The Oregon Health Authority may not adopt rules under subsection (1)(d) of this section that would require the providing of a DNA sample for the purpose of obtaining complete genetic information used to screen all newborns.

**SECTION 40.** ORS 192.539 is amended to read:

192.539. (1) Regardless of the manner of receipt or the source of genetic information, including information received from an individual or a blood relative of the individual, a person may not disclose or be compelled, by subpoena or any other means, to disclose the identity of an individual upon whom a genetic test has been performed or the identity of a blood relative of the individual, or to disclose genetic information about the individual or a blood relative of the individual in a manner that permits identification of the individual, unless:

(a) Disclosure is authorized by ORS 181A.155 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest, or a child fatality review by a county multidisciplinary child abuse team;

(b) Disclosure is required by specific court order entered pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions;

(c) Disclosure is authorized by statute for the purpose of establishing [paternity] **parentage**;

(d) Disclosure is specifically authorized by the tested individual or the tested individual's representative by signing a consent form prescribed by rules of the Oregon Health Authority;

(e) Disclosure is for the purpose of furnishing genetic information relating to a decedent for medical diagnosis of blood relatives of the decedent; or

(f) Disclosure is for the purpose of identifying bodies.

(2) The prohibitions of this section apply to any redisclosure by any person after another person has disclosed genetic information or the identity of an individual upon whom a genetic test has been performed, or has disclosed genetic information or the identity of a blood relative of the individual.

(3) A release or publication is not a disclosure if:

(a) It involves a good faith belief by the person who caused the release or publication that the person was not in violation of this section;

(b) It is not due to willful neglect;

(c) It is corrected in the manner described in ORS 192.541 (4);

(d) The correction with respect to genetic information is completed before the information is read or heard by a third party; and

(e) The correction with respect to DNA samples is completed before the sample is retained or genetically tested by a third party.

**SECTION 41.** ORS 419A.004, as amended by section 46, chapter 106, Oregon Laws 2016, is amended to read:

419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires otherwise:

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

(2) "Another planned permanent living arrangement" means an out-of-home placement for a ward 16 years of age or older that is consistent with the case plan and in the best interests of the ward other than placement:

(a) By adoption;

(b) With a legal guardian; or

(c) With a fit and willing relative.

(3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon Volunteers Commission for Voluntary Action and Service under ORS 458.581 to recruit, train and supervise volunteers to serve as court appointed special advocates.

(4) "Child care center" means a residential facility for wards or youth offenders that is licensed, certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

(5) "Community service" has the meaning given that term in ORS 137.126.

(6) "Conflict of interest" means a person appointed to a local citizen review board who has a personal or pecuniary interest in a case being reviewed by that board.

(7) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

- (8) "Court" means the juvenile court.
- (9) "Court appointed special advocate" means a person in a CASA Volunteer Program who is appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.
- (10) "Court facility" has the meaning given that term in ORS 166.360.
- (11) "Current caretaker" means a foster parent who:
- (a) Is currently caring for a ward who is in the legal custody of the Department of Human Services and who has a permanency plan or concurrent permanent plan of adoption; and
  - (b) Who has cared for the ward, or at least one sibling of the ward, for at least the immediately prior 12 consecutive months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two years of age.
- (12) "Department" means the Department of Human Services.
- (13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.
- (14) "Director" means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.
- (15) "Guardian" means guardian of the person and not guardian of the estate.
- (16) "Indian child" means any unmarried person less than 18 years of age who is:
- (a) A member of an Indian tribe; or
  - (b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- (17) "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state.
- (18) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.
- (19) "Parent" means the biological or adoptive mother and the legal [*father*] **parent** of the child, ward, youth or youth offender. As used in this subsection, "legal [*father*] **parent**" means:
- (a) A [*man*] **person** who has adopted the child, ward, youth or youth offender or whose [*paternity*] **parentage** has been established or declared under ORS [*109.070 or*] 416.400 to 416.465 or **section 2 of this 2017 Act** or by a juvenile court; and
  - (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under applicable tribal law.
- (20) "Permanent foster care" means an out-of-home placement in which there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.
- (21) "Public building" has the meaning given that term in ORS 166.360.
- (22) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child or ward while encouraging the emotional and developmental growth of the child or ward, that a substitute care provider shall use when determining whether to allow a child or ward in substitute care to participate in extracurricular, enrichment, cultural and social activities.
- (23) "Reasonable time" means a period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments.
- (24) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings or documents pertaining to a case.
- (25) "Resides" or "residence," when used in reference to the residence of a child, ward, youth or youth offender, means the place where the child, ward, youth or youth offender is actually living or the jurisdiction in which wardship or jurisdiction has been established.
- (26) "Restitution" has the meaning given that term in ORS 137.103.
- (27) "Serious physical injury" means:
- (a) A serious physical injury as defined in ORS 161.015; or
  - (b) A physical injury that:

- (A) Has a permanent or protracted significant effect on a child's daily activities;
  - (B) Results in substantial and recurring pain; or
  - (C) In the case of a child under 10 years of age, is a broken bone.
- (28) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.
- (29) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for holding children, youths and youth offenders pending further placement.
- (30) "Sibling" means one of two or more children or wards related:
- (a) By blood or adoption through a common legal parent; or
  - (b) Through the marriage of the children's or wards' legal or biological parents.
- (31) "Substitute care" means an out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home, child-caring agency as defined in ORS 418.205 or other child caring institution or facility. "Substitute care" does not include care in:
- (a) A detention facility, forestry camp or youth correction facility;
  - (b) A family home that the court has approved as a ward's permanent placement, when a child-caring agency as defined in ORS 418.205 has been appointed guardian of the ward and when the ward's care is entirely privately financed; or
  - (c) In-home placement subject to conditions or limitations.
- (32) "Surrogate" means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safeguards with respect to the provision of free appropriate public education.
- (33) "Tribal court" means a court with jurisdiction over child custody proceedings and that is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe or any other administrative body of a tribe that is vested with authority over child custody proceedings.
- (34) "Victim" means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor, "victim" includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be determined, the people of Oregon, as represented by the district attorney, are considered the victims.
- (35) "Violent felony" means any offense that, if committed by an adult, would constitute a felony and:
- (a) Involves actual or threatened serious physical injury to a victim; or
  - (b) Is a sexual offense. As used in this paragraph, "sexual offense" has the meaning given the term "sex crime" in ORS 163A.005.
- (36) "Ward" means a person within the jurisdiction of the juvenile court under ORS 419B.100.
- (37) "Young person" means a person who has been found responsible except for insanity under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.
- (38) "Youth" means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.
- (39) "Youth care center" has the meaning given that term in ORS 420.855.
- (40) "Youth offender" means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

**SECTION 42.** ORS 419B.395 is amended to read:

419B.395. (1) If in any proceeding under ORS 419B.100 or 419B.500 the juvenile court determines that the child or ward has [*no legal father*] **fewer than two legal parents** or that [*paternity*] **parentage** is disputed as allowed in ORS 109.070, the court may enter a judgment of [*paternity*] **parentage** or a judgment of [*nonpaternity*] **nonparentage** in compliance with the provisions of ORS 109.070, 109.124 to 109.230, 109.250 to 109.262 and 109.326 **and section 2 of this 2017 Act.**

(2) Before entering a judgment under subsection (1) of this section, the court must find that adequate notice and an opportunity to be heard was provided to:

- (a) The parties to the proceeding;
- (b) The *[man]* **person** alleged or claiming to be the child or ward's *[father]* **parent**; and
- (c) The Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services to the county in which the court is located.

(3) When appropriate, the court shall inform a *[man]* **person** before the court claiming to be the *[father]* **parent** of a child or ward that *[paternity]* **parentage** establishment services may be available through the administrator if the child or ward:

- (a) Is a child born out of wedlock;
  - (b) Has not been placed for adoption; and
  - (c) Has *[no legal father]* **fewer than two legal parents**.
- (4) As used in this section:

- (a) "Administrator" has the meaning given that term in ORS 25.010.
- (b) "Child born out of wedlock" has the meaning given that term in ORS 109.124.
- (c) "Legal *[father]* **parent**" has the meaning given that term in ORS 419A.004 (19).

**SECTION 43.** ORS 419B.839 is amended to read:

419B.839. (1) Summons in proceedings to establish jurisdiction under ORS 419B.100 must be served on:

- (a) The parents of the child without regard to who has legal or physical custody of the child;
- (b) The legal guardian of the child;
- (c) A putative father of the child who satisfies the criteria set out in ORS 419B.875 (1)(a)(C), except as provided in subsection (4) of this section;
- (d) A putative father of the child if notice of the initiation of filiation or *[paternity]* **parentage** proceedings was on file with the Center for Health Statistics of the Oregon Health Authority prior to the initiation of the juvenile court proceedings, except as provided in subsection (4) of this section;
- (e) The person who has physical custody of the child, if the child is not in the physical custody of a parent; and
- (f) The child, if the child is 12 years of age or older.

(2) If it appears to the court that the welfare of the child or of the public requires that the child immediately be taken into custody, the court may indorse an order on the summons directing the officer serving it to take the child into custody.

(3) Summons may be issued requiring the appearance of any person whose presence the court deems necessary.

(4) Summons under subsection (1) of this section is not required to be given to a putative father whom a court of competent jurisdiction has found not to be the child's legal *[father]* **parent** or who has filed a petition for filiation that was dismissed if no appeal from the judgment or order is pending.

(5) If a guardian ad litem has been appointed for a parent under ORS 419B.231, a copy of a summons served on the parent under this section must be provided to the guardian ad litem.

**SECTION 44.** ORS 419B.875 is amended to read:

419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500 are:

- (A) The child or ward;
- (B) The parents or guardian of the child or ward;
- (C) A putative father of the child or ward who has demonstrated a direct and significant commitment to the child or ward by assuming, or attempting to assume, responsibilities normally associated with parenthood, including but not limited to:
  - (i) Residing with the child or ward;
  - (ii) Contributing to the financial support of the child or ward; or
  - (iii) Establishing psychological ties with the child or ward;

- (D) The state;
- (E) The juvenile department;
- (F) A court appointed special advocate, if appointed;
- (G) The Department of Human Services or other child-caring agency if the agency has temporary custody of the child or ward; and
- (H) The tribe in cases subject to the Indian Child Welfare Act if the tribe has intervened pursuant to the Indian Child Welfare Act.

(b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS 419B.500.

(2) The rights of the parties include, but are not limited to:

(a) The right to notice of the proceeding and copies of the petitions, answers, motions and other papers;

(b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this section, to have counsel appointed as otherwise provided by law;

(c) The right to call witnesses, cross-examine witnesses and participate in hearings;

(d) The right of appeal; and

(e) The right to request a hearing.

(3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section shall be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C, until the court confirms his *[paternity]* **parentage** or finds that he is not the legal or biological *[father]* **parent** of the child or ward.

(4) If no appeal from the judgment or order is pending, a putative father whom a court of competent jurisdiction has found not to be the child or ward's legal or biological *[father]* **parent** or who has filed a petition for filiation that was dismissed is not a party under subsection (1) of this section.

(5)(a) A person granted rights of limited participation under ORS 419B.116 is not a party to a proceeding under ORS 419B.100 or 419B.500 but has only those rights specified in the order granting rights of limited participation.

(b) Persons moving for or granted rights of limited participation are not entitled to appointed counsel but may appear with retained counsel.

(6) If a foster parent, preadoptive parent or relative is currently providing care for a child or ward, the Department of Human Services shall give the foster parent, preadoptive parent or relative notice of a proceeding concerning the child or ward. A foster parent, preadoptive parent or relative providing care for a child or ward has the right to be heard at the proceeding. Except when allowed to intervene, the foster parent, preadoptive parent or relative providing care for the child or ward is not considered a party to the juvenile court proceeding solely because of notice and the right to be heard at the proceeding.

(7)(a) The Department of Human Services shall make diligent efforts to identify and obtain contact information for the grandparents of a child or ward committed to the department's custody. Except as provided in paragraph (b) of this subsection, when the department knows the identity of and has contact information for a grandparent, the department shall give the grandparent notice of a hearing concerning the child or ward. Upon a showing of good cause, the court may relieve the department of its responsibility to provide notice under this paragraph.

(b) If a grandparent of a child or ward is present at a hearing concerning the child or ward, and the court informs the grandparent of the date and time of a future hearing, the department is not required to give notice of the future hearing to the grandparent.

(c) If a grandparent is present at a hearing concerning a child or ward, the court shall give the grandparent an opportunity to be heard.

(d) The court's orders or judgments entered in proceedings under ORS 419B.185, 419B.310, 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to whether the grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard.

(e) Notwithstanding the provisions of this subsection, a grandparent is not a party to the juvenile court proceeding unless the grandparent has been granted rights of intervention under ORS 419B.116.

(f) As used in this subsection, “grandparent” means the legal parent of the child’s or ward’s legal parent, regardless of whether the parental rights of the child’s or ward’s legal parent have been terminated under ORS 419B.500 to 419B.524.

(8) Interpreters for parties and persons granted rights of limited participation shall be appointed in the manner specified by ORS 45.275 and 45.285.

**SECTION 45.** ORS 432.088 is amended to read:

432.088. (1) A report of live birth for each live birth that occurs in this state shall be submitted to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for Health Statistics, within five calendar days after the live birth and shall be registered if the report has been completed and filed in accordance with this section.

(2) The physician, institution or other person providing prenatal care related to a live birth shall provide prenatal care information as required by the state registrar by rule to the institution where the delivery is expected to occur not less than 30 calendar days prior to the expected delivery date.

(3) When a live birth occurs in an institution or en route to an institution, the person in charge of the institution or an authorized designee shall obtain all data required by the state registrar, prepare the report of live birth, certify either by signature or electronic signature that the child was born alive at the place and time and on the date stated and submit the report as described in subsection (1) of this section.

(4) In obtaining the information required for the report of live birth, an institution shall use information gathering procedures provided or approved by the state registrar. Institutions may establish procedures to transfer, electronically or otherwise, information required for the report from other sources, provided that the procedures are reviewed and approved by the state registrar prior to the implementation of the procedures to ensure that the information being transferred is the same as the information being requested.

(5)(a) When a live birth occurs outside an institution, the information for the report of live birth shall be submitted within five calendar days of the live birth in a format adopted by the state registrar by rule in the following order of priority:

(A) By an institution where the **birth** mother and child are examined, if examination occurs within 24 hours of the live birth;

(B) By a physician in attendance at the live birth;

(C) By a direct entry midwife licensed under ORS 687.405 to 687.495 in attendance at the live birth;

(D) By a person not described in subparagraphs (A) to (C) of this paragraph and not required by law to be licensed to practice midwifery who is registered with the Center for Health Statistics to submit reports of live birth and who was in attendance at the live birth; or

(E) By the father, the **birth** mother, **any other parent** or, in the absence **or inability of any parent** [*of the father and the inability of the mother*], the person in charge of the premises where the live birth occurred.

(b) The state registrar may establish by rule the manner of submitting the information for the report of live birth by a person described in paragraph (a)(D) of this subsection or a physician or licensed direct entry midwife who attends the birth of his or her own child, grandchild, niece or nephew.

(6) When a report of live birth is submitted that does not include the minimum acceptable documentation required by this section or any rules adopted under this section, or when the state registrar has cause to question the validity or adequacy of the documentation, the state registrar, in the state registrar’s discretion, may refuse to register the live birth and shall enter an order to that effect stating the reasons for the action. The state registrar shall advise the applicant of the right to appeal under ORS 183.484.

(7) When a live birth occurs on a moving conveyance:

(a) Within the United States and the child is first removed from the conveyance in this state, the live birth shall be registered in this state and the place where it is first removed shall be considered the place of live birth.

(b) While in international waters or airspace or in a foreign country or its airspace and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the report of live birth shall show the actual place of birth insofar as can be determined.

(8) For purposes of making a report of live birth and live birth registration, the woman who gives live birth is the *[live]* birth mother. If a court of competent jurisdiction determines that a woman other than the *[live]* birth mother is the biological or genetic mother, the court may order the state registrar to amend the record of live birth. The record of live birth shall then be placed under seal.

(9)(a) If the **birth** mother is married at the time of either conception or live birth, or within 300 days before the live birth, the name of the mother's spouse in a marriage shall be entered on the report of live birth as *[the]* a parent of the child unless parentage has been determined otherwise by a court of competent jurisdiction.

(b) If the **birth** mother is not married at the time of either conception or live birth, or within 300 days before the live birth, the name of the **other** parent shall not be entered on the report of live birth unless a voluntary acknowledgment of paternity form or other form prescribed under ORS 432.098 is:

(A) Signed by the **birth** mother and the person to be named as the **other** parent; and

(B) Filed with the state registrar.

(c) If the **birth** mother is a partner in a domestic partnership registered by the state at the time of either conception or live birth, or between conception and live birth, the name of the **birth** mother's partner shall be entered on the report of live birth as a parent of the child, unless parentage has been determined otherwise by a court of competent jurisdiction.

(d) In any case in which paternity **or parentage** of a child is determined by a court of competent jurisdiction, or by an administrative determination of paternity **or parentage**, the Center for Health Statistics shall enter the name of *[the]* **each** parent on the new record of live birth. The Center for Health Statistics shall change the surname of the child if so ordered by the court or, in a proceeding under ORS 416.430, by the administrator as defined in ORS 25.010.

(e) If a biological parent is not named on the report of live birth, information other than the identity of the biological parent may be entered on the report.

(10) A parent of the child, or other informant as determined by the state registrar by rule, shall verify the accuracy of the personal data to be entered on a report of live birth in time to permit submission of the report within the five calendar days of the live birth.

(11) A report of live birth submitted after five calendar days, but within one year after the date of live birth, shall be registered in the manner prescribed in this section. The record shall not be marked "Delayed."

(12) The state registrar may require additional evidence in support of the facts of live birth.

**SECTION 46.** ORS 432.098 is amended to read:

432.098. (1) The Director of the Oregon Health Authority shall adopt by rule a form of a voluntary acknowledgment of paternity that includes the minimum requirements specified by the United States Secretary of Health and Human Services. When the form is signed by both biological parents and witnessed by a third party, the form establishes *[paternity]* **parentage** for all purposes when filed with the State Registrar of the Center for Health Statistics, provided there is no *[male]* **second** parent already named in the report of live birth. Establishment of *[paternity]* **parentage** under this section is subject to the provisions and the requirements in ORS 109.070. When there is no *[other male]* **second parent** named *[as father]* on the child's record of live birth, the filing of such voluntary acknowledgment of paternity form shall cause the state registrar to place the name of the *[male]* parent who has signed the voluntary acknowledgment of paternity form on the record of live birth of the child or, if appropriate, establish a replacement for the record containing the name of the child's *[male]* parent, as that parent is named in the voluntary acknowledgment of paternity

form. When signed by both parents in the health care facility of the child's birth within five days after the birth, the voluntary acknowledgment of paternity form is not a sworn document. When thus signed, a staff member of the health care facility shall witness the signatures of the parents. In all other circumstances, the form is a sworn document. The filing of the voluntary acknowledgment of paternity form created by this section is subject to the payment of any fees that may apply.

(2) The voluntary acknowledgment of paternity form must contain:

(a) A statement of rights and responsibilities including any rights afforded to a minor parent;

(b) A statement of the alternatives to and consequences of signing the acknowledgment;

(c) Instructions on how to file the form with the state registrar and information about any fee required;

(d) Lines for the Social Security numbers and addresses of the parents; and

(e) A statement that the rights, responsibilities, alternatives and consequences listed on the acknowledgment were read to the parties prior to signing the acknowledgment.

(3) Upon request, the state registrar shall provide a copy of any voluntary acknowledgment of paternity form to the state agency responsible for administration of the child support enforcement program created under Title IV-D of the Social Security Act. The duty imposed upon the state registrar by this section is limited to records of live birth executed and filed with the state registrar after October 1, 1995.

**SECTION 47.** ORS 432.103 is amended to read:

432.103. A determination of paternity **or parentage** by another state is entitled to full faith and credit.

**SECTION 48.** ORS 432.245 is amended to read:

432.245. (1) For a person born in this state, the State Registrar of the Center for Health Statistics shall amend a record of live birth and establish a replacement for the record if the state registrar receives one of the following:

(a) A report of adoption as provided in ORS 432.223 or a certified copy of the judgment of adoption, with the information necessary to identify the original record of live birth and to establish a replacement for the record, unless the court ordering the adoption requests that a replacement for the record not be established;

(b) A request that a replacement record of live birth be prepared to establish parentage, as prescribed by the state registrar by rule or ordered by a court of competent jurisdiction in this state that has determined the [*paternity*] **parentage** of a person;

(c) A written and notarized request, signed by both parents, acknowledging paternity; or

(d) A certified copy of a judgment that indicates that an individual born in this state has completed sexual reassignment and that the sex on the record of live birth must be changed.

(2) To change a person's name under subsection (1) of this section, the request or court order must include the name that currently appears **on** the record of live birth and the new name to be designated on the replacement for the record. The new name of the person shall be shown on the replacement for the record.

(3) Upon receipt of a certified copy of a court order to change the name of a person born in this state as authorized by 18 U.S.C. 3521 et seq., the state registrar shall create a replacement for a record of live birth to show the new information as specified in the court order.

(4) When a replacement for a record of live birth is prepared, the city, county and date of live birth must be included in the replacement. The replacement for the record must be substituted for the original record of live birth. The original record of live birth and all evidence submitted with the request or court order for the replacement for the record must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

(5) Upon receipt of an amended judgment of adoption, the record of live birth shall be amended by the state registrar as provided by the state registrar by rule.

(6) Upon receipt of a report of annulment of adoption or a court order annulling an adoption, the original record of live birth must be restored. The replacement for the record of live birth is

not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

(7) If there is no record of live birth for a person for whom a replacement for the record is sought under this section and the court issues an order indicating a date of live birth more than one year from the date submitted to the Center for Health Statistics, the replacement for the record of live birth shall be created as a delayed record of live birth.

(8) The state registrar shall prepare and register a record of foreign live birth for a person born in a foreign country who is not a citizen of the United States and for whom a judgment of adoption was issued by a court of competent jurisdiction in this state if the court, the parents adopting the child or the adopted person, if the adopted person is 18 years of age or older, requests the record. The record must be labeled "Record of Foreign Live Birth" and shall show the actual country of live birth. After registering the record of foreign live birth in the new name of the adopted person, the record must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

(9) A replacement record of live birth may not be created under this section if the date and place of live birth have not been determined by the court order.

**SECTION 48a. If House Bill 2673 becomes law, section 48 of this 2017 Act (amending ORS 432.245) is repealed.**

**SECTION 49.** ORCP 4 K is amended to read:

K Certain marital and domestic relations actions.

K(1) In any action to determine a question of status instituted under ORS chapter 106 or 107 when the plaintiff is a resident of or domiciled in this state.

K(2) In any action to enforce personal obligations arising under ORS chapter 106 or 107, if the parties to a marriage have concurrently maintained the same or separate residences or domiciles within this state for a period of six months, notwithstanding departure from this state and acquisition of a residence or domicile in another state or country before filing of such action; but if an action to enforce personal obligations arising under ORS chapter 106 or 107 is not commenced within one year following the date upon which the party who left the state acquired a residence or domicile in another state or country, no jurisdiction is conferred by this subsection in any such action.

K(3) In any proceeding to establish [*paternity*] **parentage** under ORS chapter 109 or 110, or any action for declaration of [*paternity*] **parentage** where the primary purpose of the action is to establish responsibility for child support, when the act of sexual intercourse which resulted in the birth of the child is alleged to have taken place in this state.

**SECTION 50.** ORS 109.030 is amended to read:

109.030. The rights and responsibilities of the parents, in the absence of misconduct, are equal, and [*the mother*] **each parent** is as fully entitled to the custody and control of the children and their earnings as the [*father*] **other parent**. In case of the [*father's*] death **of one parent**, the [*mother*] **other parent** shall come into [*as*] full and complete control of the children and their estate [*as the father does in case of the mother's death*].

**SECTION 51.** ORS 109.124 is amended to read:

109.124. As used in ORS 109.124 to 109.230, unless the context requires otherwise:

(1) "Child attending school" has the meaning given that term in ORS 107.108.

(2) "Child born out of wedlock" means a child born to an unmarried [*woman*] **person** or to a married [*woman*] **person** by [*a man other than her husband*] **another person who is not the person's spouse**.

(3) "Respondent" may include, but is not limited to, one or more persons who may be the father of a child born out of wedlock, the [*husband*] **spouse** of a woman who has or may have a child born out of wedlock, the mother of a child born out of wedlock, the [*woman*] **person** pregnant with a child who may be born out of wedlock, or the duly appointed and acting guardian of the child or conservator of the child's estate.

**SECTION 52.** ORS 109.125 is amended to read:

109.125. (1) Any of the following may initiate proceedings under this section:

(a) A mother of a child born out of wedlock or a woman pregnant with a child who may be born out of wedlock;

(b) The duly appointed and acting guardian of the child, conservator of the child's estate or a guardian ad litem, if the guardian or conservator has the physical custody of the child or is providing support for the child;

(c) The administrator, as defined in ORS 25.010;

(d) A man claiming to be the father of a child born out of wedlock or of an unborn child who may be born out of wedlock; or

(e) The minor child by a guardian ad litem.

(2) Proceedings shall be initiated by the filing of a duly verified petition of the initiating party. The petition shall contain:

(a) If the initiating party is one of those specified in subsection (1)(a), (b), (c) or (e) of this section:

(A) The name of the mother of the child born out of wedlock or the [woman] **person** pregnant with a child who may be born out of wedlock;

(B) The name of the mother's [husband] **spouse** if the child is alleged to be a child born to a married [woman by] **person and** a man other than [her] **the mother's [husband] spouse**;

(C) Facts showing the petitioner's status to initiate proceedings;

(D) A statement that a respondent is the father;

(E) The probable time or period of time during which conception took place; and

(F) A statement of the specific relief sought.

(b) If the initiating party is a man specified in subsection (1)(d) of this section:

(A) The name of the mother of the child born out of wedlock or the [woman] **person** pregnant with a child who may be born out of wedlock;

(B) The name of the mother's [husband] **spouse** if the child is alleged to be a child born to a married [woman by] **and** a man other than [her] **the mother's [husband] spouse**;

(C) A statement that the initiating party is the father of the child and accepts the same responsibility for the support and education of the child and for all pregnancy-related expenses that he would have if the child were born to him in lawful wedlock;

(D) The probable time or period of time during which conception took place; and

(E) A statement of the specific relief sought.

(3) When proceedings are initiated by the administrator, as defined in ORS 25.010, the state and the child's mother and putative father are parties.

(4) When a proceeding is initiated under this section and the child support rights of one of the parties or of the child at issue have been assigned to the state, a true copy of the petition shall be served by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support services to the county in which the suit is filed.

(5) A [man] **person** whose [paternity] **parentage** of a child has been established under [ORS 109.070] **section 2 of this 2017 Act** is a necessary party to proceedings initiated under this section unless the [paternity] **parentage** has been disestablished before the proceedings are initiated.

**SECTION 53. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2017, out of the General Fund, the amount of \$52,812, which may be expended for carrying out the provisions of this 2017 Act.**

**SECTION 54. The amendments to ORS 25.020, 25.075, 25.082, 25.650, 25.750, 107.179, 107.425, 109.012, 109.030, 109.070, 109.072, 109.073, 109.092, 109.094, 109.096, 109.098, 109.103, 109.124, 109.125, 109.145, 109.155, 109.175, 109.239, 109.243, 109.247, 109.251, 109.252, 109.254, 109.259, 109.264, 109.315, 109.321, 109.326, 109.704, 112.105, 163.565, 180.320, 180.380, 192.535, 192.539, 416.400, 419A.004, 419B.395, 419B.839, 419B.875, 432.088, 432.098, 432.103 and 432.245 and ORCP 4 K by sections 3 to 52 of this 2017 Act apply to establishments and disestablishments of**

**parentage and parentage proceedings made or commenced on or after the effective date of this 2017 Act.**

**SECTION 55.** If either Senate Bill 513 or House Bill 2673 becomes law, section 54 of this 2017 Act is amended to read:

**Sec. 54.** The amendments to [ORS 25.020, 25.075, 25.082, 25.650, 25.750, 107.179, 107.425, 109.012, 109.030, 109.070, 109.072, 109.073, 109.092, 109.094, 109.096, 109.098, 109.103, 109.124, 109.125, 109.145, 109.155, 109.175, 109.239, 109.243, 109.247, 109.251, 109.252, 109.254, 109.259, 109.264, 109.315, 109.321, 109.326, 109.704, 112.105, 163.565, 180.320, 180.380, 192.535, 192.539, 416.400, 419A.004, 419B.395, 419B.839, 419B.875, 432.088, 432.098, 432.103 and 432.245] **statutes** and ORCP 4 K by sections 3 to 52 of this 2017 Act apply to establishments and disestablishments of parentage and parentage proceedings made or commenced on or after the effective date of this 2017 Act.

**Passed by Senate June 28, 2017**

**Received by Governor:**

**Repassed by Senate July 7, 2017**

.....M.,....., 2017

**Approved:**

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Lori L. Brocker, Secretary of Senate

.....M.,....., 2017

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Peter Courtney, President of Senate

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Kate Brown, Governor

**Passed by House July 6, 2017**

**Filed in Office of Secretary of State:**

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Tina Kotek, Speaker of House

.....M.,....., 2017

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Dennis Richardson, Secretary of State