

Enrolled
Senate Bill 385

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CHAPTER

AN ACT

Relating to alternative dispute resolution of parental rights disputes; creating new provisions; and amending ORS 107.146 and 107.434.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 107.

SECTION 2. (1) The presiding judge of each judicial district may establish an alternative dispute resolution conference procedure for custody and parenting time modification and enforcement before a court hearing. The conference procedure must, at a minimum:

(a) Require that the parties be notified in advance that the conference will be conducted in an informal manner and will not use the rules of evidence;

(b) Provide each party with a full opportunity to present the party's position;

(c) Accommodate safety concerns in conference procedures when safety concerns are identified;

(d) Allow a party's attorney to be present; and

(e) Notify the parties that if an agreement is not reached the conference officer described in subsection (2) of this section may make a recommendation to the court, but that no party will lose the party's right to a judicial hearing.

(2) The presiding judge shall appoint a conference officer to hold a conference under this section. The conference officer must have completed training in mediation, child development and domestic violence, as prescribed by the presiding judge or local rules adopted under ORS 3.220, and must be:

(a) An employee of the Judicial Department; or

(b) An attorney or trained mediator appointed by the court in accordance with local rules adopted under ORS 3.220.

(3)(a) If the parties reach an agreement on the contested issues during the conference, the conference officer shall prepare a stipulated order or judgment using forms approved by the State Court Administrator, and:

(A) If a party has an attorney, the party's attorney shall have the opportunity to review the stipulated order or judgment;

(B) The parties shall sign the stipulated order or judgment; and

(C) The conference officer shall submit the stipulated order or judgment to the court that has authority over the underlying case.

(b) If the parties cannot reach an agreement on all of the contested issues during the conference, the conference officer may do one or both of the following:

(A) Assist the parties in developing a stipulated order or judgment on one or more of the resolved issues.

(B) Make recommendations to the court on the contested issues and, if requested, schedule a court hearing on those issues and notify the parties of the date and time of the hearing.

(4) At a hearing, the court may receive into evidence and consider the recommendation of the conference officer on contested issues but shall assign no specific evidentiary weight to that recommendation.

(5) If mediation has not been waived by the court, a conference under this section is in addition to and not in lieu of mediation.

(6) The conference procedure may not be used in proceedings under ORS 107.700 to 107.735.

SECTION 3. ORS 107.146 is amended to read:

107.146. (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent, the court shall hold an expedited hearing in:

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

(b) Any proceeding under ORS 107.135, 107.138 and 107.139 **and section 2 of this 2019 Act** where a deployed parent or a parent whose deployment is imminent is a party; and

(c) A proceeding under ORS 107.145 (4).

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

SECTION 4. ORS 107.434 is amended to read:

107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting time enforcement procedure that may or may not include a requirement for mediation **or participation in an alternative dispute resolution conference under section 2 of this 2019 Act**. The procedure must be easy to understand and initiate. Unless the parties otherwise agree **or an alternative dispute resolution conference under section 2 of this 2019 Act is scheduled**, the court shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall provide forms for:

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

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

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

(B) A notice in substantially the following form:

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

(c) A motion, supported by an affidavit or a declaration under penalty of perjury in the form required by ORCP 1 E, and an order that may be filed by either party and providing for waiver of any mediation requirement on a showing of good cause.

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

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

(A) Specifying a detailed parenting time schedule;

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

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

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

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

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

(e) Terminate, suspend or modify spousal support;

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

(g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

Passed by Senate April 9, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 30, 2019

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Tina Kotek, Speaker of House

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Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

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