

DOMESTIC RELATIONS AND JUVENILE LAW

DOCUMENTATION FOR DISCOVERY REQUEST

ORS 107.089

2013 OR LAWS CH 171 (SB 239)

Senate Bill 239 amends ORS 107.089 to include documentation evidencing the unique identifying number for all automobiles, motor vehicles, and boats covered by the statutory discovery request.

Effective date: January 1, 2014.

MINOR CHILD CONSENT TO MENTAL HEALTH TREATMENT

ORS 109.675, 109.680, 109.685

2013 OR LAWS CH 178 (SB 491)

ORS 109.675 currently allows a minor child 14 years of age or older to obtain, without parental knowledge or consent, outpatient diagnosis or treatment of mental or emotional disorders or chemical dependency by a physician, psychologist, nurse practitioner, and licensed clinical social worker. Senate Bill 491 adds to that list licensed professional counselors or marriage and family therapists and exempts them from civil liability for certain disclosures and provision of diagnosis or treatment to minors.

Effective date: January 1, 2014. The bill's provisions apply to diagnoses and treatments provided to a minor on or after the effective date.

ADMINISTRATIVE SUPPORT MODIFICATIONS

ORS 18.031, 416.425, 416.440, 416.448

2013 OR LAWS CH 183 (SB 589)

Senate Bill 589 removes the requirement for separate judicial approval of administrative modifications for orders originally determined by the court. All administrative modifications will become effective on filing with the court, regardless of how the original order originated (i.e., court-ordered or by the Child Support Program through the administrative process). The bill makes no change to each party's right to appeal the administrative order and request a hearing in circuit court within 60 days of the date the order was entered.

Effective date: January 1, 2014.

DISMISSAL OF PENDING DOMESTIC ACTION

2013 OR LAWS CH 185 (SB 591)

Senate Bill 591 clarifies that a general judgment of dismissal of a judicial proceeding filed under ORS chapter 107, 108, or 109 for lack of prosecution by the parties does not dismiss an administrative support order that was entered before the date of the dismissal so long as the parties involved in the judicial proceeding are the same as those affected by the administrative support order. No part of this bill changes the court's authority to supersede an administrative order.

Effective date: January 1, 2014. The bill's provisions apply to general judgments of dismissal entered on or after the effective date.

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JUVENILE COURT RECORDS
ORS 419A.015 TO 419A.300, 419B.367,
420.048

2013 OR LAWS CH 417 (SB 622)

Senate Bill 622 defines the “record of the case” in juvenile court proceedings, which is the normal court file, and a “supplemental confidential file” (previously known as the “social file”), which includes reports relating to the child’s history and prognosis. The bill clarifies who has access and who may disclose each of these files. SB 622 allows attorneys who may be filing an appeal of a juvenile court decision access to both files for purposes of analyzing the appeal.

Effective date: January 1, 2014. Most of the bill’s provisions apply to juvenile court proceedings commenced on or after the effective date. The court’s authority to allow persons other than those specifically authorized to obtain files otherwise confidential becomes operative July 1, 2014.

DISABILITY AND CHILD CUSTODY
ORS 107.105, 107.137

2013 OR LAWS CH 72 (HB 2433)

House Bill 2433 amends ORS 107.137 to specifically provide that if a party has a disability (as defined by the Americans with Disabilities Act of 1990), the court may not consider that party’s disability in determining custody unless the court finds that the party’s behaviors or limitations related to the party’s disability are presently endangering or will in the future likely endanger the child’s health, safety, or welfare. HB 2433 makes a similar amendment to ORS 107.105(1)(b) relating to establishing parenting time and parenting time rights for noncustodial parents.

Effective date: January 1, 2014. The bill’s provisions apply to child custody and parenting time proceedings commenced on or after the effective date.

ATTORNEY FEES IN PROTECTIVE PROCEEDINGS
ORS 125.095

2013 OR LAWS CH 99 (HB 2570)

In 2012, the Oregon Court of Appeals ruled that ORS 125.095 does not authorize the payment of attorney fees incurred before a protective order has been entered for services rendered in a financial abuse case brought on the protected person’s behalf. *In re Derkatsch*, 248 Or App 185, 273 P2d 204 (2012). In other words, attorneys could not be paid for the pre-order work they undertake on a

potential protected person’s behalf (e.g., legal research, drafting petitions and other paperwork, court appearances, etc.), even if that person is subsequently deemed by the court to be in need of protection.

House Bill 2570 modifies ORS 125.095 to provide the court specific authority to use the funds of a person subject to a protective proceeding to pay for attorney fees incurred prior to the court declaring the person protected. The bill also makes clear that the procedures set forth in ORCP 68 do not apply to requests for approval and payment of attorney fees under ORS 125.095.

Effective date: January 1, 2014.

SPOUSAL SUPPORT PAYMENTS AND FINANCIAL
RESTRAINING ORDERS

ORS 107.105, 109.103, 109.135

2013 OR LAWS CH 126 (HB 2571)

The first portion of House Bill 2571 specifically terminates, as a matter of law, spousal support on the death of either party unless otherwise expressly provided in the judgment. The change is consistent with Oregon case law and federal tax law. Practitioners and parties can still include provisions in a judgment that will make payments continue after death, and courts would still retain the authority to do so if appropriate. The bill also clarifies that unpaid spousal support does not terminate on the death of a party.

The second portion of HB 2571 excludes ORS 107.093 from the ORS chapter 107 provisions that apply to ORS chapter 109 cases. The bill concurrently creates new provisions in ORS chapter 109 that impose specific restrictions on parties in a custody and parenting time case involving unmarried parents. The amendment specifically restrains both parties in an ORS chapter 109 proceeding from the following actions after the petition is filed and served:

- (1) 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
- (2) 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.

Any party to an ORS chapter 109 proceeding has

the ability to request temporary orders from the court that include modification or revocation of the statutory restraining orders.

Effective date: January 1, 2014.

ATTORNEY FEES IN LIFE INSURANCE ENFORCEMENT ACTION

ORS 107.820, 109.103
2013 OR LAWS CH 127 (HB 2572)

The first section of House Bill 2572 provides courts with the authority to award attorney fees in an action to enforce a court-ordered requirement that an obligor maintain life insurance to guarantee payment of spousal or child support. The second portion of HB 2572 clarifies that a court may order one parent to maintain any existing life insurance policies if the parent owes child support, regardless of whether the parents were legally married.

Effective date: January 1, 2014.

GRANDPARENT RIGHTS IN DEPENDENCY PROCEEDINGS

ORS 419B.875
2013 OR LAWS CH 436 (HB 3249)

House Bill 3249 amends ORS 419B.875 to provide that the Department of Human Services (DHS) must exercise due diligence to locate grandparents of a child who is before a court in a dependency matter when (1) there is an allegation of abuse and neglect, and (2) the court is considering placing the child outside the home. The new portions of the statute provide grandparents a specific right to be heard in dependency proceedings involving their grandchildren. It also permits the court to order visitation or other contact or communication between the grandparent and the grandchild if the grandparent makes such a request.

Effective date: January 1, 2014. The bill's provisions apply to juvenile dependency proceedings pending or commenced on or after the effective date.

PAID LEAVE FOR DOMESTIC VIOLENCE, HARASSMENT, SEXUAL ASSAULT, OR STALKING

ORS 659A.290

2013 OR LAWS CH 613 (HB 3263)

House Bill 3263 creates new law that permits an employee of the State of Oregon who is a victim of domestic violence, harassment, sexual assault, or stalking to take up to 160 hours of leave with pay each calendar year after

exhausting all other forms of paid leave available to the employee. The bill requires the State to make a number of notifications to employees.

Effective date: July 2, 2013.

DHS CASE PLAN DISCLOSURE TO PARTIES

ORS 419A.255, 419A.256, 419B.881
2013 OR LAWS CH 439 (HB 3363)

House Bill 3363 amends ORS 419B.881 to require that the Department of Human Services (DHS) provide to all parties in a dependency proceeding the case plan or the modification of the case plan for a child before a court on an abuse and neglect matter. Disclosure of the case plan by DHS must occur within 10 days of completion or modification of the plan and receipt by DHS of the written material or information about services provided under the case plan.

Effective date: January 1, 2014. The bill's provisions apply to dependency proceedings commenced or pending before, on, or after the effective date.