

ORS 107.137 Factors considered in determining custody of child.

1. In determining custody of a minor child under ORS 107.105 or 107.135, the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors:
 - a. The emotional ties between the child and other family members;
 - b. The interest of the parties in and attitude toward the child;
 - c. The desirability of continuing an existing relationship;
 - d. The abuse of one parent by the other;
 - e. The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court; and
 - f. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. However, the court may not consider such willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in a pattern of behavior of abuse against the parent or a child and that a continuing relationship with the other parent will endanger the health or safety of either parent or the child.
2. The best interests and welfare of the child in a custody matter shall not be determined by isolating any one of the relevant factors referred to in subsection (1) of this section, or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent has committed abuse, as defined in ORS 107.705, there is a rebuttable presumption that it is not in the best interests and welfare of the child to award sole or joint custody of the child to the parent who committed the abuse.
3. In determining custody of a minor child under ORS 107.105 or 107.135, the court shall consider the conduct, marital status, income, social environment or life style of either party only if it is shown that any of these factors are causing or may cause emotional or physical damage to the child.
4. No preference in custody shall be given to the mother over the father for the sole reason that she is the mother, nor shall any preference be given to the father over the mother for the sole reason that he is the father. [1975 c.722 §2; 1987 c.795 §14; 1997 c.707 §35; 1999 c.762 §2]

ORS 107.434 Expedited parenting time enforcement procedure; fees; remedies.

1. The presiding judge of each judicial district shall establish an expedited parenting time enforcement procedure that may or may not include a requirement for mediation. The procedure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall charge a filing fee of \$50, subject to waiver or deferral of the fee under ORS 21.680 to 21.698. The court shall provide forms for:
 - a. A motion filed by either party alleging a violation of parenting time or substantial violations of the parenting plan. When a person files this form, the person must include a copy of the order establishing the parenting time.
 - b. An order requiring the parties to appear and show cause why parenting time should not be enforced in a specified manner. The party filing the motion shall serve a copy of the motion and the order on the other party. The order must include:
 - (A) A notice of the remedies imposable under subsection (2) of this section and the availability of a waiver of any mediation requirement; and
 - (B) A notice in substantially the following form:

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

- c. A motion, affidavit and order that may be filed by either party and providing for waiver of any mediation requirement on a showing of good cause.
2. In addition to any other remedy the court may impose to enforce the provisions of a judgment relating to the parenting plan, the court may:
 - a. Modify the provisions relating to the parenting plan by:
 - (A) Specifying a detailed parenting time schedule;
 - (B) Imposing additional terms and conditions on the existing parenting time schedule; or
 - (C) Ordering additional parenting time, in the best interests of the child, to compensate for wrongful deprivation of parenting time;

- b. Order the party who is violating the parenting plan provisions to post bond or security;
- c. Order either or both parties to attend counseling or educational sessions that focus on the impact of violation of the parenting plan on children;
- d. Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees and court costs, incurred in enforcing the party's parenting plan;
- e. Terminate, suspend or modify spousal support;
- f. Terminate, suspend or modify child support as provided in ORS 107.431; or
- g. Schedule a hearing for modification of custody as provided in ORS 107.135(11). [1997 c.707 §3; 2003 c.116 §6; 2003 c.737 §§50,51; 2005 c.702 §§57,58,59; 2007 c.493 §14]

Note: Section 15 (17), chapter 860, Oregon Laws 2007, provides:

Sec. 15. (17) In addition to the fee provided for in ORS 107.434 (1), for the period commencing September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge of \$3 upon the filing of a motion seeking enforcement of a parenting time order or a substantial violation of a parenting plan. [2007 c.860 §15(17)]