Chapter 107

1969 REPLACEMENT PART

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DIVORCE AND ANNULMENT

107.010 When void marriage may be annulled. A marriage may be declared void from the beginning, at the suit of either party, for any of the causes specified in ORS 106.020; and, whether so declared or not, shall be deemed and held to be void in any action, suit or proceeding in which it may come into question. A marriage once declared valid by the decree of a court having jurisdiction thereof, in a suit for that purpose, cannot afterwards be questioned for the same cause directly or otherwise.

107.020 When voidable marriage may be annulled; cohabitation as defense. A marriage shall not be declared void for any of the causes specified in ORS 106.030 except at the suit or claim of the party laboring under the disability or upon whom the force or fraud was imposed or practiced. The suit or claim of such party shall fail if it appears that the parties freely cohabitated together as husband and wife after the suing or claiming party arrived at legal age, acquired sufficient understanding, was restored to reason, was freed from the force or discovered the fraud, as the case may be.

107.030 Grounds for divorce. The dissolution of the marriage contract may be declared at the suit or claim of the injured party for any of the following causes:

(1) Impotency existing at the time of the marriage and continuing to the commencement of the suit.

(2) Adultery; but a confession of adultery, whether in or out of the pleadings, is not of itself sufficient to justify a decree of divorce.

(3) Conviction of a felony.

(4) Habitual gross drunkenness contracted since marriage and continuing for one year prior to the commencement of the suit.

(5) Wilful desertion for the period of one year.

(6) Cruel and inhuman treatment or personal indignities rendering life burdensome.

(7) Permanent mental illness where the defendant has been adjudged mentally ill by a court of competent jurisdiction, and where it appears to the satisfaction of the court by competent evidence given by at least two physicians licensed by the State Board of Medical Examiners of the State of Oregon that (a) such mental illness has been continuous for at least two years prior to the commencement of the suit and that (b) the mental illness is incurable. No decree of divorce shall be granted under this subsection unless there is presented to the court as evidence a certified copy of the order of adjudication of mental illness. The prevailing party shall not be awarded any property or property right of a mentally ill spouse, notwithstanding the provisions of ORS 107.100, except that upon competent, satisfactory evidence other than the testimony of the prevailing party the court may award to the prevailing party such property or property right standing in the name of the mentally ill spouse as has been acquired exclusively by the prevailing party.

[Amended by 1953 c.439 §2; 1965 c.311 §1]

107.035 Divorce when both parties at fault. (1) In any action for divorce when it shall appear to the court that both parties have been guilty of a wrong or wrongs which may constitute grounds for a divorce under ORS 107.030, the court shall not for this reason deny a divorce, but in its discretion may grant a divorce to the party least at fault. if both parties seek a divorce, otherwise to the party seeking the divorce, even if such party be the party most at fault.

(2) Notwithstanding paragraph (c) of subsection (1) of ORS 107.100, whenever a marriage is declared dissolved pursuant to subsection (1) of this section, the court has the power to decree the recovery from one party such amounts of money, in gross or in instalments, or both, as may be just and proper for such party to contribute to the other. The decree must contain special findings of fact in support of such recovery. The court must also approve, ratify and decree any voluntary property settlement between the parties.

[1969 c.264 §2]

107.040 State as party to annulment and divorce suits; service of summons on district attorney. (1) In any suit for the dissolution of the marriage contract, or to have a marriage declared void, the state is to be deemed a defendant, and the plaintiff shall cause a summons to be served personally or by mail as provided in ORS 16.790 upon the district attorney of the district within which the suit is commenced, or his duly appointed deputy, at least 10 days before the time at which the defendant is required to appear and answer. The district attorney, so far as may be necessary to prevent fraud or collusion in the suit, shall

control the proceedings on the part of the defense and in case the defendant does not appear therein or defend against the same in good faith, shall make a defense therein on behalf of the state.

(2) The court shall not hear or determine any suit for a divorce until service has been made upon the district attorney as provided in this section, except where the district attorney or his duly appointed deputy waives the provisions of this section by appearing in person at the trial of the cause or by written acknowledgment of service waiving time for his appearance therein
[Amended by 1965 c.388 §1]

107.045 Waiting period in divorce suit. (1) Except as provided in ORS 107.090 and in subsection (2) of this section, no trial or hearing on the merits in a suit for the dissolution of a marriage contract upon either of the grounds stated in subsection (4) or (6) of ORS 107.030 shall be had until after the expiration of 90 days from the date of:

(a) The service of the summons and complaint upon the defendant; or

(b) The first publication of summons under ORS 15.140.

(2) The court may in its discretion, on written motion supported by affidavit setting forth grounds of emergency or necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by a final decree or order in the proceedings, hold a hearing and grant a decree of divorce prior to the expiration of the waiting period. In such case the grounds of emergency or necessity and the facts with respect thereto shall be found and recited in the decree.
[1957 c.444 §1; 1965 c.603 §1]

107.050 Residence requirements for annulment. If the marriage was solemnized in this state, a suit may be maintained to have it declared void if the plaintiff is a resident of or domiciled in the state at the time the suit is commenced. If the marriage was not solemnized in this state, a suit may be maintained to have it declared void if the plaintiff is a resident of or domiciled in the state at the time the suit is commenced and has been for one year prior thereto; which residence or domicile is sufficient to give the court jurisdiction.
[Amended by 1965 c.603 §2]

107.060 Residence requirements for divorce. In a suit for dissolution of the marriage contract, the plaintiff must be a resident of or be domiciled in the state at the time the suit is commenced and for a period of one year prior thereto. Such residence or domicile is sufficient to give the court jurisdiction, without regard to the place where the marriage was solemnized or where the cause of suit arose.
[Amended by 1965 c.603 §3]

107.070 Defenses to suit for divorce. (1) In a suit for dissolution of the marriage contract on account of adultery, the defendant may admit the adultery and show in bar of the suit that:

(a) The act was committed by the procurement or with the connivance of the plaintiff;

(b) The act has been forgiven, expressly or by implication from the voluntary cohabitation of the parties after the injured party had knowledge thereof;

(c) The plaintiff has been guilty of adultery also without the procurement or connivance of the defendant and not forgiven as provided in paragraph (b) of this subsection; or

(d) The suit has not been commenced within one year after the discovery of the act by the plaintiff.

(2) When the suit is for any of the causes specified in subsection (3), (4), (5) or (6) of ORS 107.030, the defendant may admit the charge and show in bar of the suit that the act was committed by the procurement of the plaintiff or that it has been expressly forgiven; and, in case the suit is founded on subsection (3) of ORS 107.030, the defendant may also show in bar thereof that the suit was not prosecuted within one year after the cause of suit accrued to the plaintiff.

107.080 Suit to have marriage declared valid; relief permitted. When either husband or wife claims or pretends that the marriage is void or voidable, as provided in ORS 106.020 and 106.030, respectively, it may be declared valid and lawful at the suit of the other. In such suit the court may, if the pleadings and proofs authorize it, declare the marriage void from the beginning, or from the time of the decree, or that it is valid and binding on the parties thereto.

107.090 Provisions court may by order make after commencement of suit and before decree. (1) After the commencement of a suit for dissolution of the marriage contract or to have a marriage declared void and before a decree therein, the court may provide as follows:

(a) That the husband or wife pay to the clerk of the court such amount of money as may be necessary to enable his or her spouse to prosecute or defend the suit, as the case may be, and also such amount of money as may be necessary to support and maintain his or her spouse during the pendency of the suit.

(b) For the care, custody and maintenance of the minor children of the marriage during the pendency of the suit.

(c) For the restraint of the husband or wife from in any manner molesting or interfering with the other or the minor children.

(d) That if minor children reside in the family home and the court considers it necessary for their best interests to do so, the court may require either the husband or wife to move out of the home for such period of time and under such conditions as the court may determine, whether the home is rented, owned, or being purchased by the husband, wife or both.

(e) Restraining and enjoining either the husband or wife, or both, from encumbering or disposing of any of their property, real or personal, during the pendency of the suit, except as ordered by the court.

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

(2) The court shall not require an undertaking in case of the issuance of an order under either paragraph (c), (d) or (e) of subsection (1) of this section.

[Amended by 1953 c.602 §2; 1955 c.648 §4; 1959 c.572 §1; 1969 c.221 §1]

107.100 Provisions of decree of divorce or annulment. (1) Whenever a marriage is declared void or dissolved, the court has power further to decree as follows:

(a) For the future care and custody of the minor children of the marriage as it may deem just and proper. In determining custody the court shall consider the best interests of the child and the past conduct and demonstrated moral standards of each of the parties. No preference in custody shall be given to the mother over the father for the sole reason that she is the mother.

(b) For the recovery from the party not allowed the care and custody of such children, such amount of money, in gross or in instalments, or both, as may be just and proper for such party to contribute toward the nurture and education of such children.

(c) For the recovery from the party at fault or, under unusual circumstances in the discretion of the court, from the party not at fault, such amount of money, in gross or in instalments, or both, as may be just and proper for such party to contribute to the maintenance of the other; provided that in case recovery from the party not at fault is allowed, the decree must contain special findings of the facts constituting the unusual circumstances; provided, further, that the court may approve, ratify and decree voluntary property settlement agreements that provide for contribution by the prevailing party to the maintenance and support of the party in fault. In case a divorce is granted under the provisions of subsection (7) of ORS 107.030, the court may require the prevailing party to contribute to the support and maintenance of the mentally ill party to such extent and in such manner as the court may determine to be just and equitable.

(d) For the delivery to one party of such party's personal property in the possession or control of the other at the time of giving the decree.

(e) For the appointment of one or more trustees to collect, receive, expend, manage or invest, in such manner as the court directs, any sum of money decreed for the maintenance of a party or the nurture and education of minor children committed to such party's care and custody.

(f) To change the name of the wife.

(g) A judgment against one party in favor of the other for any sums of money found to be then remaining unpaid upon any enforceable order or orders theretofore duly made and entered in the proceedings pursuant to any of the provisions of ORS 107.090, and for any such further sums as additional attorney fees or additional costs and expenses of suit or defense as the court finds reasonably and necessarily incurred by such party; or, in the absence of any such order or orders pendente lite, a like judgment for

such amount of money as the court finds was reasonably necessary to enable such party to prosecute or defend the suit, as the case may be.

(2) If an appeal is taken from a decree declaring a marriage void or dissolved or from any part of a decree rendered in pursuance of the provisions of ORS 107.010 to 107.030 and 107.040 to 107.100, the court making such decree shall provide for the temporary support of the minor children of the parties thereto, and may provide for the temporary support of the party found not to be at fault. The order may be modified at any time by the court making the decree appealed from, shall provide that the support money be paid in monthly instalments, and shall further provide that it is to be in effect only during the pendency of the appeal. No appeal lies from any such temporary order.

(3) If an appeal is taken from the decree or other appealable order in a suit for dissolution or annulment of the marriage contract, and the appellate court awards costs and disbursements to the prevailing party, it may also award to that party, as part of the costs, such additional sum of money as it may adjudge reasonable as an attorney fee on the appeal.

(4) Whenever a marriage is declared void or dissolved, the court shall make such division or other disposition between the parties of the real or personal property, or both, of either or both of the parties as may be just and proper in all the circumstances, in addition to any further relief decreed as provided for in subsection (1), (2) or (3) of this section.

(5) If, as a result of a suit for the dissolution or annulment of a marriage, the parties to such suit become owners of an undivided interest in any real or personal property, or both, either party may maintain supplemental proceedings by filing a petition in such suit for the partition of such real or personal property, or both, within two years from the entry of said decree, showing among other things that the original parties to such decree and their joint or several creditors having a lien upon any such real or personal property, if any there be, constitute the sole and only necessary parties to such supplemental proceedings. The procedure in the supplemental proceedings shall be, as far as applicable, the procedure provided for in ORS 105.205 to 105.405, for the partition of real property, and the court granting such decree and the judges thereof shall have in the first instance and retain jurisdiction in equity for such purpose of partition as provided for in this subsection.

[Amended by 1953 c.553 §2; 1953 c.635 §2; 1961 c.540 §1; 1963 c.476 §1; 1965 c.603 §6; 1969 c.198 §53; 1969 c.591 §283]

Note: The amendment of ORS 107.100 by 1969 c.591 takes effect July 1, 1970.

107.110 Annulment or divorce decree ends marriage; when effective; appeal. (1) A decree declaring a marriage void or dissolved at the suit or claim of either party shall give the court jurisdiction to award, to be effective immediately, the relief provided by ORS 107.100. The decree shall not be effective in so far as it affects the marriage relationship of the parties until the expiration of 60 days from the date of the decree or, if an appeal is taken, until the suit is determined on appeal, whichever is later. However, the right of one party to cohabit with the other shall cease on the date of the decree.

(2) In case either party dies within the 60-day period specified in subsection (1) of this section, the decree shall be considered to have entirely terminated the marriage relationship immediately before such death, unless an appeal is pending.

(3) (a) The Court of Appeals or the Supreme Court shall continue to have jurisdiction of such an appeal pending at the time of death of either party. The appeal may be continued by the personal representative of the deceased party. The attorney of record on the appeal, for the deceased party, may be allowed a reasonable attorney fee, to be paid from the decedent's estate. However, costs on appeal may not be awarded to either party.

(b) The Court of Appeals or the Supreme Court shall have the power to determine finally all matters presented on such appeal. Before making final disposition, the Court of Appeals or the Supreme Court may refer the proceeding back to the trial court for such additional findings of fact as are required.

(4) The marriage relationship is terminated in all respects at the expiration of the 60-day period specified in subsection (1) of this section or, if an appeal is taken, when the suit is determined on appeal, whichever is later, without any further action by either party. However, at any time within the 60-day period or while an appeal is pending, the court may set aside the decree upon the motion of both parties.

(5) A decree declaring a marriage void or dissolved shall specify the date on which the decree becomes finally effective to terminate the marriage relationship of the parties.

(6) The 60-day period specified in subsection (1) of this section does not apply when a decree declares a marriage void under ORS 107.010.

[Amended by 1965 c.603 §4; 1969 c.179 §1; 1969 c.198 §54; 1969 c.591 §284]

Note: The amendment to ORS 107.110 by 1969 c.591 takes effect July 1, 1970.

107.120 Decrees and orders as liens; duration. No order or decree for the future payment of money in gross or in instalments, entered under the subsections (1) and (2) of ORS 107.100 and Acts supplementary thereof, shall continue to be a lien on real property for a period of more than 10 years from the date of such order or decree unless it is renewed as provided in ORS 18.360.

107.125 Content of decree of divorce in domestic relations suit. The decree of divorce in a domestic relations suit, as defined in ORS 107.510, shall state the addresses, ages and wage earner Social Security Account numbers, if known, of the parties and the date and place of their marriage.

[1965 c.386 §3]

107.130 Vacation or modification of decree. (1) The court, or judge thereof, has the power at any time after a decree is given, upon the motion of either party, to:

(a) Set aside, alter or modify so much of the decree as may provide for the appointment of trustees, for the support and custody of minor children, for the nurture or education thereof, or both, or for the maintenance of either party to the suit; and,

(b) Make an order, after personal service within this state of notice to the other party, providing for the future support or custody of minor children residing in the state who, at the time the decree was given, were not residents of the state, or were unknown to the court, or were erroneously omitted from the decree.

(2) The decree is a final judgment as to any instalment or payment of money which has accrued up to the time either party makes a motion to set aside, alter or modify the decree, and the court does not have the power to set aside, alter or modify such decree, or any portion thereof, which provides for any payment of money, either for the nurture or education of minor children or the maintenance of either party to the suit, which has accrued prior to the filing of such motion.

(3) The court may assess a reasonable attorney's fee against an unsuccessful moving party who files a motion to set aside, alter or modify a decree as in this section provided.

[Amended by 1961 c.429 §1]

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

107.141 Validation of certain decrees of divorce or annulment. Any decree of divorce or annulment entered prior to January 1, 1961, otherwise valid but the validity of which may be affected by failure of the court records to evidence the service of process upon the district attorney or the presence of the district attorney at the final hearing, is in all respects valid.

[1961 c.551 §1]

107.150 Validation of certain marriages. (1) The subsequent marriage of a party to a divorce validated by paragraph (b) of subsection (1) of ORS 107.140 hereby is validated in so far as the validity of such marriage is affected by any irregularity mentioned in paragraph (b) of subsection (1) of ORS 107.140.

(2) The subsequent marriage of a party to a divorce validated by paragraph (c) of subsection (1) of ORS 107.140 hereby is validated in so far as the validity of such marriage is affected by any irregularity mentioned in paragraph (c) of subsection (1) of ORS 107.140.

(3) The subsequent marriage of a party to a divorce validated by paragraph (d) of subsection (1) of ORS 107.140 hereby is validated in so far as the validity of such marriage is affected by any irregularity mentioned in paragraph (d) of subsection (1) of ORS 107.140.

(4) All marriages made prior to April 21, 1947, hereby are declared valid where the period of six months had not elapsed from the date of a decree declaring a marriage void or dissolved in which suit or claim either party to such subsequent marriage was a party if the subsequent marriage was in all other respects legal and regular.

(5) Any marriage in all other respects legal and regular, made prior to January 1, 1959, and before the expiration of six months

from the date of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved, hereby is declared valid; and any child conceived or born of such marriage shall be deemed legitimate.

(6) Any marriage in all other respects legal and regular, made prior to January 1, 1965, and before the expiration of six months from the date of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved, hereby is declared valid. Any child conceived or born of such a marriage is legitimate.

(7) Any decree of divorce or annulment entered prior to August 13, 1965, otherwise valid but the validity of which may be affected by irregularities in the procedure required by ORS 107.440 and 107.450, is in all respects valid.

[Subsection (5) enacted as 1953 c.491 §1; 1959 c.228 §1; subsection (6) enacted as 1965 c.603 §7; subsection (7) enacted as 1965 c.386 §4]

107.160 Attorney fees in certain domestic relations matters. In any proceeding brought under ORS 108.110 and 108.120, and in any contempt proceeding brought to compel compliance with any other orders provided in ORS 107.090, or with the decree in any suit to avoid or dissolve the marriage contract or for separate maintenance or separation from bed and board the court or judge thereof may make an order awarding to the petitioner, relator or defendant prevailing in such proceeding a sum of money determined to be reasonable as an attorney's fee therein. The order shall be entered and docketed as a judgment, and execution may issue thereon in the same manner and with like effect as upon a final decree.

[Amended by 1963 c.497 §4]

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

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

SEPARATION FROM BED AND BOARD

107.210 Grounds for separation. (1) A permanent separation of married persons from bed and board may be decreed by the circuit court for adultery if the adulterous act was not the result of connivance or consent of the parties and the plaintiff is not guilty of the same offense.

(2) A separation of married persons from bed and board for a limited or unlimited time may be decreed by the circuit court for the following causes:

(a) Wilful desertion or, where the wife is plaintiff, neglect or refusal to provide for her during a period of six months.

(b) Conviction of a felony.

(c) Habitual gross drunkenness contracted since marriage and continuing for one year prior to the commencement of the suit.

(d) Cruel and inhuman treatment or personal indignities rendering life burdensome.

107.220 Length of separation; vacation or modification of decree. The court shall fix such length of time as, in its estimation, the cause for separation will continue to exist. At the expiration of such time, the decree shall be of no further force or affect, unless, upon the application of either party, the court shall, upon good cause shown, extend or renew such time. When the separation from bed and board is for an unlimited time, if either party believes that the cause for separation has ceased to exist, he may apply to the court for an order vacating the decree or modifying it on such terms as may appear to be just and proper.

107.230 Residence requirements in suit for separation. In any suit for the separation from bed and board, one of the parties must be a resident and inhabitant of this state at the commencement of the suit, which residence shall be sufficient to give the court jurisdiction thereof.

107.240 Condonation of separation cause. The offending spouse may plead in defense that the cause for the separation has been condoned.

107.250 Provisions court may make after commencement of suit and before decree. After the commencement of a suit for separation from bed and board and before the decree therein, the court may provide as follows:

(1) That the husband or wife pay to the clerk of the court such amount of money as may be necessary to enable his or her spouse to prosecute or defend the suit, as the case may be, and also such amount of money as may be necessary to support and maintain his or her spouse during the pendency of the suit.

(2) For the care, custody and maintenance of the minor children of the marriage during the pendency of the suit.

(3) That if minor children reside in the

family home and the court considers it necessary for their best interests to do so, the court may require either the husband or wife to move out of the home for such period of time and under such conditions as the court may determine, whether the home is rented, owned, or being purchased by the husband, wife or both.

(4) For the freedom of the husband or wife from the control of his or her spouse during the pendency of the suit.

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

(6) For restraining and enjoining either the husband or wife, or both, from encumbering or disposing of any of their property, real or personal, during the pendency of the suit, except as ordered by the court.

[Amended by 1955 c.648 §5; 1959 c.572 §2; 1969 c.221 §2; 1969 c.313 §1]

107.260 Provisions of decree of separation. Whenever the court grants a decree of separation from bed and board, it has power further to decree as follows:

(1) For the future care and custody of the minor children of the marriage as it may deem just and proper, having due regard to the age and sex of such children and, unless otherwise manifestly improper, giving the preference to the party less at fault.

(2) For the recovery from the party not allowed the custody and care of such children, such amount of money, in instalments, as may be just and proper for such party to contribute toward the nurture and education of such children.

(3) For the recovery from a party at fault such amount of money, in instalments, as may be just and proper for such party to contribute to the maintenance of the other.

(4) For the delivery to either spouse of his personal property in the possession or control of the other at the time of granting the decree.

(5) For the appointment of one or more trustees to collect, receive, expend, manage or invest in such manner as the court directs, any sum of money decreed for the maintenance of either spouse and for the nurture and education of their minor children.

107.270 Provisions court may make pending appeal. If an appeal is taken from all or part of a decree rendered in pursuance of ORS 107.260, the court which made the decree shall provide for the temporary support of the minor children of the parties thereto and may provide for the temporary support of the party in whose favor a decree for maintenance was rendered. Such order may be modified at any time by the court granting the decree appealed from, shall provide for such support money to be paid in instalments, and shall further provide that it is to be in effect only during the pendency of the appeal. No appeal lies from any such temporary order.

[Amended by 1969 c.198 §55]

107.280 Decreeing disposition of property. Whenever a decree of permanent or unlimited separation from bed and board has been granted, the party at whose prayer such decree was granted shall be awarded in individual right such undivided or several interest in any right, interest or estate in real or personal property owned by the other or owned by them as tenants by the entirety at the time of such decree, as may be just and proper in all circumstances, in addition to the decree of maintenance.

[Amended by 1959 c.572 §3; 1969 c.591 §285]

Note: The amendment of ORS 107.270 by 1969 c.591 takes effect July 1, 1970.

107.290 Vacation or modification of decree. Upon motion of either party at any time after a decree is given, the court may set aside, alter or modify so much of the decree as provides for the appointment of trustees, for the care and custody of the minor children, for the nurture or education thereof, or both, or for the maintenance of either party to the suit; and such decree is a final judgment as to any instalments or payments of money provided for therein which have accrued up to the time either party makes such a motion. The court shall not have the power to set aside or modify such decree, or any part thereof, which provides for payments of money, either for the nurture or education of the minor children or the maintenance of either party to the suit, which have accrued prior to the filing of such motion.

107.300 Attorney fees upon appeal from separation decree. If an appeal is taken from all or part of a decree rendered in pursuance of ORS 107.250, 107.260, 107.280 or 107.290, the Supreme Court may award attorney's fees in addition to those awarded under ORS 107.160.

107.310 Effect of separation statutes on divorce rights or statutes. ORS 107.210 to 107.320 are not intended to and shall not repeal or affect any existing law pertaining to the granting of an absolute divorce. The obtaining of a temporary separation under ORS 107.210 to 107.320 shall not be a bar to the entering of a suit for absolute divorce by either party. No decree of divorce granted by a court of this or any other state upon constructive service of summons shall affect an award of maintenance made pursuant to ORS 107.250, 107.260 or 107.270.

107.320 Conversion of divorce suit into suit for separation. If, after a suit for divorce is commenced and prior to the entry of final decree, the court finds that neither party is entitled to a decree of divorce, the court may allow, upon motion of either party, amendment of the pleadings to conform to the requirements of a suit for separation from bed and board and then may allow the suit to proceed as provided in ORS 107.210 to 107.310.

DIVORCE, ANNULMENT AND SEPARATION PROCEEDINGS GENERALLY

107.410 Powers of court in proceedings for divorce, annulment or separation. When a court is sitting in proceedings for divorce, annulment or separation, it shall have full equity powers.
[1961 c.418 §1]

107.420 Accounting by custodian of children for payments for support of such children. Whenever a court, in a proceeding for divorce, annulment or separation from bed and board, either before or after decree, awards to a party having the care and custody of minor children money for the support of such children, the court may, in its discretion, require an accounting from the custodian of the children with reference to the use of the money.
[1961 c.340 §1]

107.430 Investigation where children involved in proceeding. (1) Whenever a complaint is filed for divorce, annulment or separation from bed and board, or whenever a habeas corpus proceeding or motion to modify an existing decree is before the court, the court having jurisdiction may, in cases in which there are children involved, cause an investigation to be made as to the character, family relations, past conduct, earning ability and financial worth of the parties to the action for the purpose of protecting the children's future interests. Such findings shall be offered as and subject to all rules of evidence.

(2) The court, on its own motion, may cite either party to the action to appear and testify as a witness during this investigation.

(3) The court having jurisdiction of cases described in subsection (1) of this section may hire and fix the salaries of such professional and clerical personnel as are necessary to carry out the purposes of this section. The salaries of the professional and clerical assistants shall be paid in the same manner as the salaries of county officers are paid.
[Formerly 107.180; amended by 1963 c.223 §1]

107.440 Complaint to state only statutory grounds; facts to be provided in bill of particulars. (1) Notwithstanding the provisions of ORS 16.210, in a domestic relations suit, as defined in ORS 107.510, the complaint or cross-complaint shall state the statutory grounds for the suit without detailing allegations which constitute the basis for such grounds. The facts relied upon as the statutory ground for the suit shall be furnished in a verified bill of particulars served and filed within 10 days after a written demand therefor by the other party. If the bill of particulars is not furnished within the 10-day period after demand, the complaint or cross-complaint may be dismissed by the court. When a bill of particulars has been demanded, the time to answer or reply shall begin to run from the time such bill of particulars is furnished.

(2) The court may order either party to furnish a verified bill of particulars, or if the bill of particulars furnished is insufficient, may require additional facts to be supplied so as to advise the other party of the facts relied upon as the statutory ground for the suit.

(3) It is not necessary to furnish a verified bill of particulars unless the court so

orders or the other party makes written demand therefor.
[1963 c.434 §14; 1965 c.386 §1]

107.450 Contents of complaint; parties; minor children; other suits. The complaint in a domestic relations suit, as defined in ORS 107.510, in addition to the requirements of ORS 16.210, shall state the following:

(1) The names, addresses and dates of birth of the parties' children who are under 21 years of age; and

(2) Whether a domestic relations suit involving the same marriage is pending in any other court in this or any other state if the existence of such suit is known.
[1963 c.434 §13; 1965 c.386 §2]

CONCILIATION SERVICES

107.510 Definitions. As used in ORS 21.112, 107.440, 107.450 and 107.510 to 107.610:

(1) "Conciliation jurisdiction" means domestic relations conciliation jurisdiction and authority exercised under ORS 21.112, 107.440, 107.450 and 107.510 to 107.610 by a circuit court in any controversy existing between spouses which may, unless a reconciliation or a settlement of the controversy is effected, result in the dissolution or annulment of the marriage or in disruption of the household.

(2) "Conciliation services" means domestic relations counseling and related services obtained by a circuit court exercising conciliation jurisdiction and used by the court in exercising that jurisdiction.

(3) "Domestic relations suit" means suit for dissolution of the marriage contract, annulment of the marriage or separation from bed and board.
[1963 c.434 §1]

107.520 Establishment of conciliation jurisdiction. The circuit court for any county or the circuit courts of more than one county comprising a judicial district after making a determination that the social conditions of the county or district make it desirable to establish conciliation services for the full and proper consideration of domestic relations suits filed in such county or district may exercise conciliation jurisdiction and obtain, use and provide conciliation services as provided in ORS 21.112, 107.440, 107.450 and 107.510 to 107.610. After conciliation jurisdiction has been established the circuit court or courts of such county or district may at any time determine that the need for such service does not warrant its continuance and terminate the same.
[1963 c.434 §2; 1965 c.625 §1]

107.530 Source of conciliation services; county to pay expenses. (1) A circuit court or the circuit courts of a judicial district exercising conciliation jurisdiction may obtain conciliation services by:

(a) Employing or contracting for counselors and other personnel; or

(b) Contracting or entering into agreements with public or private agencies to provide conciliation services to the court or courts.

(2) Subject to the provisions of the Local Budget Law, the compensation and expenses of personnel performing conciliation services for the circuit court or courts and other expenses of providing conciliation services may be paid by the county or as may be agreed upon between the counties involved.
[1963 c.434 §3; 1965 c.625 §2]

107.540 Conciliation jurisdiction by court; effect. Whenever any domestic relations suit is commenced in a circuit court exercising conciliation jurisdiction and providing conciliation services, the court may, in its discretion, exercise conciliation jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy. If, within 45 days after the court commences to exercise conciliation jurisdiction, a reconciliation or a settlement of the controversy has not been effected, the domestic relations suit shall proceed as if the court had not exercised conciliation jurisdiction, and, if the suit is for dissolution of the marriage contract, the waiting period prescribed by ORS 107.045 does not apply to the suit.
[1963 c.434 §4]

107.550 Petition for conciliation jurisdiction; contents. (1) Whenever either spouse or both spouses file in a circuit court exercising conciliation jurisdiction and providing conciliation services a petition requesting the court to exercise conciliation jurisdiction with respect to a controversy existing between the spouses, the court shall exercise conciliation jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy.

(2) The petition shall:

(a) Allege that a controversy exists between the spouses and request the aid of the court to effect a reconciliation or a settlement of the controversy;

(b) State the name, address and age of each spouse and the date and place of marriage;

(c) State the name, address and age of each minor child of the spouses or either spouse;

(d) State, if known, whether a domestic relations suit involving the same marriage is pending in any other court in this or any other state; and

(e) State such other information as the court, by rule, may require.

(3) No fee shall be charged for filing the petition.

[1963 c.434 §5, 1965 c.625 §3]

107.560 Effect of petition. A petition may be filed under ORS 107.550 whether or not a domestic relations suit in which the spouses are parties has been commenced. When a petition for conciliation jurisdiction is filed no trial or hearing on the merits of a domestic relations suit between the parties shall be had until after the expiration of 45 days from the filing of the petition; provided, however, that during this period the court may use its full equity powers to protect and preserve the rights of the spouses.

[1963 c.434 §6; 1965 c.625 §4]

107.570 Notice; attendance at hearings. When a circuit court undertakes to exercise conciliation jurisdiction pursuant to ORS 107.540 or 107.550, it shall refer the matter to the conciliation services provided by the court. The court shall cause notice to be given to the spouses of the undertaking to exercise conciliation jurisdiction and the authority therefor, whether under ORS 107.540 or 107.550, and of the time and place of any hearing, conference or other proceeding scheduled pursuant to the exercise of conciliation jurisdiction. The court may require the attendance of the spouses and of witnesses as in other civil cases.

[1963 c.434 §7]

107.580 Restriction of services; priority where children involved. Whenever a circuit court determines that the conciliation services provided by it are not adequate for the proper disposition of all matters that may be referred to the services under ORS 107.570, the court, by rule, may restrict the services provided, but shall give priority to controversies in which the spouses have children under 15 years of age whose welfare is involved in the outcome of the controversy.

[1963 c.434 §8]

107.590 Court orders; reconciliation agreements. (1) A circuit court undertaking to exercise conciliation jurisdiction pursuant to ORS 107.540 or 107.550, with the consent of the spouses, may make orders with respect to the conduct of the spouses and with respect to the subject of the controversy as it considers necessary to preserve the marriage or to implement the reconciliation of the spouses; but an order shall not be effective for more than 60 days unless the spouses consent to a continuance of the order.

(2) Any reconciliation agreement between the spouses may be reduced to writing, and, with the consent of the spouses, the court may make an order requiring the spouses to comply fully with the agreement.

(3) The court may at any time terminate or modify any order previously made.

[1963 c.434 §9; 1965 c.625 §5]

107.600 Privacy of hearings; confidentiality of communications; records closed. (1) All hearings, conferences and other proceedings held pursuant to circuit court exercise of conciliation jurisdiction pursuant to ORS 107.540 or 107.550 shall be held in private, and all persons other than officers of the court, conciliation services personnel, the spouses, their counsel and witnesses shall be excluded.

(2) All communications, verbal or written, between spouses and from spouses to counselors, the court, attorneys, doctors or others engaged in the conciliation proceedings, made in conciliation conferences, hearings and other proceedings had pursuant to the exercise of the court's conciliation jurisdiction shall be confidential within the meaning of paragraph (e) of subsection (1) of ORS 44.040.

(3) All records of the court with respect to exercise of conciliation jurisdiction shall be closed. However, any petition filed under ORS 107.550, any written reconciliation agreement between the spouses and any court order made in the matter may be opened to inspection by either spouse or his counsel upon written authorization by a judge of the court.

[1963 c.434 §10, 1965 c.625 §6]

107.610 Qualifications of conciliation counselors. Persons performing conciliation services pursuant to ORS 21.112, 107.440, 107.450 and 107.510 to 107.610 shall have minimum educational and experience qualifications of a master's degree in the behavioral sciences; or a bachelor's degree and one year's graduate training, both in the behavioral science plus two years' paid case work or clinical experience; or a bachelor's degree in the behavioral sciences plus four years' paid case work or clinical experience.
[1963 c.434 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1969.

Robert W. Lundy
Legislative Counsel