

Chapter 107

1971 REPLACEMENT PART

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DISSOLUTION AND ANNULMENT**107.005 Annulment of void marriage; declaration of validity; effect of declaration.**

(1) A marriage may be declared void from the beginning 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.

(2) When either husband or wife claims or pretends that the marriage is void or voidable under the provisions of ORS 106.020, it may at the suit of the other be declared valid or that it was void from the beginning or that it is void from the time of the decree.

(3) A marriage once declared valid by the decree of a court having jurisdiction thereof, in a suit for that purpose, cannot afterward be questioned for the same cause directly or otherwise.

[1971 c.280 §7]

107.010 [Repealed by 1971 c. 280 §28]

107.015 Grounds for annulment or dissolution of marriage. The annulment or dissolution of a marriage may be decreed for the following causes:

(1) When either party to the marriage was incapable of making such contract or consenting thereto for want of legal age or sufficient understanding;

(2) When the consent of either party was obtained by force or fraud;

provided that in the situations described in subsection (1) or (2) of this section the contract was not afterward ratified.

[1971 c.280 §8]

107.020 [Repealed by 1971 c.280 §28]

107.025 Irreconcilable differences as grounds for dissolution. The dissolution of a marriage may be decreed when irreconcilable differences between the parties have caused the irremediable breakdown of the marriage.

[1971 c.280 §9]

107.030 [Amended by 1953 c.439 §2; 1965 c.311 §1; repealed by 1971 c.280 §28]

107.035 [1969 c.264 §2; repealed by 1971 c.280 §28]

107.036 Doctrines of fault and in pari delicto abolished; evidence admissible not to include fault; decree. (1) The doctrines of fault and of in pari delicto are abolished in suits for the annulment or dissolution of a marriage.

(2) The court shall not receive evidence

of specific acts of misconduct, excepting where child custody is an issue and such evidence is relevant to that issue, or excepting at a hearing when the court finds such evidence necessary to prove irreconcilable differences.

(3) In dividing, awarding and distributing the real and personal property (or both) of the parties (or either of them) between the parties, or in making such property or any of it subject to a trust, and in fixing the amount and duration of the contribution one party is to make to the support of the other, the court shall not consider the fault, if any, of either of the parties in causing grounds for the annulment or dissolution of the marriage.

(4) Where satisfactory proof of grounds for the annulment or dissolution of a marriage has been made, the court shall not award a decree to either party but shall only decree the annulment or dissolution of the marriage.

[1971 c.280 §10]

107.040 [Amended by 1965 c.388 §1; repealed by 1971 c.280 §28]

107.045 [1957 c. 444 §1; 1965 c.603 §1; repealed by 1971 c.280 §28]

107.046 Appearance by district attorney. In any suit for the annulment or dissolution of a marriage when the court requests it the district attorney shall appear to represent the interests of the state.

[1971 c.280 §4]

107.050 [Amended by 1965 c.603 §2; repealed by 1971 c.280 §28]

107.055 Appearance by respondent; affirmative defenses abolished. The respondent shall not be required to answer a petition for annulment or dissolution of a marriage except by filing a general appearance or a general appearance with counterclaims relating to matters other than the grounds for annulment or dissolution. Affirmative defenses are abolished.

[1971 c.280 §11]

107.060 [Amended by 1965 c.603 §3; repealed by 1971 c. 280 §28]

107.065 Waiting period in dissolution suit; waiver. (1) Except as provided in ORS 107.095 and in subsection (2) of this section, no trial or hearing on the merits in a suit for the dissolution of a marriage shall be had until after the expiration of 90 days from the date of:

(a) The service of the summons and petition upon the respondent; 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 rights or interest 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 dissolving the marriage 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. [1971 c.280 §6]

107.070 [Repealed by 1971 c.280 §28]

107.075 Residence requirements. If the marriage was solemnized in this state and either party is a resident of or domiciled in the state at the time the suit is commenced, a suit for its annulment or dissolution may be maintained where the ground alleged is one set forth in ORS 106.020 or 107.015. When the marriage was not solemnized in this state or when any other ground is alleged, at least one party must be a resident of or be domiciled in this state at the time the suit is commenced and continuously for a period of six months 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. [1971 c.280 §5]

107.080 [Repealed by 1971 c.280 §28]

107.085 Petition; title; content; other required information. (1) A suit for annulment or dissolution of a marriage hereafter brought shall be entitled: "IN THE MATTER OF DISSOLUTION OF THE MARRIAGE OF (names of parties)." The moving party shall be designated as the "Petitioner" and the other party the "Respondent." Nothing in this section shall preclude both parties from acting as "Co-Petitioners."

(2) The petition shall state the following:

(a) The names, addresses and dates of birth of all of the children of the marriage; and

(b) Whether a domestic relations suit or a petition for support pursuant to ORS 108.110 involving the same marriage is pending in any other court in this or any other state if the existence of such suit is known.

(3) At or prior to the hearing of a suit for annulment or dissolution of a marriage,

the moving party or the party attending the hearing shall file with the court a written statement setting forth the residence or legal addresses of the parties, the maiden and all former legal names of the wife, the ages of both parties, their wage earner social security account numbers, the date and place of the marriage of the parties, and the names and ages of the children of the marriage. This information shall be incorporated in and made a part of the decree.

[1971 c.280 §2]

107.090 [Amended by 1953 c.602 §2; 1955 c.648 §4; 1959 c.572 §1; 1969 c.221 §1; repealed by 1971 c.280 §28]

107.095 Provisions court may make by order after commencement of suit and before decree. (1) After the commencement of a suit for annulment or dissolution of a marriage and before a decree therein, the court may provide as follows:

(a) That a party pay to the clerk of the court such amount of money as may be necessary to enable the other party to prosecute or defend the suit, and also such amount of money as may be necessary to support and maintain the other party.

(b) For the care, custody, support and maintenance of the minor children of the marriage.

(c) For the restraint of a party 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 interest to do so, the court may require either party 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 one party or both parties.

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

(f) For the temporary use, possession and control of the real or personal property of the parties or either of them and the payment of instalment liens and encumbrances thereon.

(2) 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.

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

(4) In a suit for annulment or dissolution of marriage wherein the respondent is found by the court to be in default, the court may, when the cause is otherwise ready for hearing on the merits, if support or custody of minor children is not involved, in lieu of such hearing, enter a decree of annulment or dissolution based upon an affidavit of the petitioner, setting forth a prima facie case, and covering such additional matters as the court may require.

[1971 c. 280 §12]

107.100 [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; repealed by 1971 c.280 §28]

107.105 Provisions of decree of dissolution 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 support and welfare of such children. The court may at any time require an accounting from the custodian of the children with reference to the use of the money awarded.

(c) For the support of a party, in gross or in instalments, or both, such amount of money for such period of time as it may be just and equitable for the other party to contribute. The court may approve, ratify and decree voluntary property settlement agreements providing for contribution to the support of a party. If requested by either party, the court shall make and set forth in its decree the findings of fact upon which its award or denial of support was based. In making such support order, the court shall consider the following matters:

- (A) The duration of the marriage;
- (B) The ages of the parties;
- (C) Their health and conditions;
- (D) Their work experience and earning capacities;
- (E) Their financial conditions, resources and property rights;
- (F) The provisions of the decree relating to custody of the minor children of the parties;
- (G) The ages, health and dependency conditions of the children of the parties, or either of them; and
- (H) Such other matters as the court shall deem relevant.

(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 the giving of the decree.

(e) For the 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.

(f) (A) There is a minor child of the marriage, for the appointment of one or more trustees to hold, control and manage for the benefit of the children of the parties, of the marriage or otherwise, such of the real or personal property of either or both of the parties, as the court may order to be allocated or appropriated to their support and welfare; and to collect, receive, expend, manage or invest any sum of money decreed for the support and welfare of minor children of the parties.

(B) For the appointment of one or more trustees to hold, manage and control such amount of money or such real or personal property of either or both of the parties, as may be set aside, allocated or appropriated for the support of a party.

(C) The court shall direct the terms of the trust and make provision for the disposition or distribution of such money or property to or between the parties, their successors, heirs and assigns after the purpose of the trust has been accomplished. Upon petition of a party or a person having an interest in the trust showing a change of circumstances warranting a change in the terms of the trust, the court shall have the power to make and direct reasonable modifications in its terms.

(g) To change the name of the wife.

(h) 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 107.095, 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.

(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 107.005 to 107.142, 107.405, 107.425 to 107.520, 107.540 and 107.610, 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 a party. 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 annulment or dissolution of a marriage, 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) If, as a result of a suit for the annulment or dissolution 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, so far as applicable, shall be the procedure provided in ORS 105.405, for the partition of real property, and the court granting such decree shall have in the first

instance and retain jurisdiction in equity therefor.

[1971 c.280 §13]

107.110 [Amended by 1965 c.603 §4; 1969 c.179 §1; 1969 c.198 §54; 1969 c.591 §284; repealed by 1971 c.280 §28]

107.115 Effect of decree; effective date; appeal. (1) A decree of annulment or dissolution of a marriage restores the parties thereto to the status of unmarried persons, unless a party is married to another person. Such decree shall give the court jurisdiction to award, to be effective immediately, the relief provided by ORS 107.105. The decree shall revoke a will pursuant to the provisions of ORS 112.315, but the decree shall not be effective in so far as it affects the marital status 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.

(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 Supreme Court shall continue to have jurisdiction of such an appeal pending at the time of the 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 Supreme Court shall have the power to determine finally all matters presented on such appeal. Before making final disposition, the Court of Appeals or 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 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 107.005.

[1971 c.280 §14]

107.120 [Repealed by 1971 c.280 §28]

107.125 [1965 c.386 §3; repealed by 1971 c.280 §28]

107.126 Decrees and orders as liens; duration. No order or decree for the future payment of money in gross or in instalments, entered under ORS 107.095 or 107.105, 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.

[1971 c.280 §15]

107.130 [Amended by 1961 c.429 §1; repealed by 1971 c.280 §28]

107.135 Vacation or modification of decree. (1) The court has the power at any time after a decree is given, upon the motion of either party and after service of notice on the other party in the manner provided by law for service of a summons, to:

(a) Set aside, alter or modify so much of the decree as may provide for the appointment and duties of trustees, for the custody, support and welfare of the minor children, or for the support of a party; and

(b) Make an order, after service of notice to the other party, providing for the future custody, support and welfare 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 minor children or the support of a party, which has accrued prior to the filing of such motion.

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

[1971 c.280 §16]

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 [1961 c.551 §1; repealed by 1971 c.280 §28]

107.142 Validation of certain decrees of dissolution or annulment; status of children.

(1) Any decree of divorce or annulment entered prior to January 1, 1970, 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.

(2) Any marriage in all other respects legal and regular, made prior to January 1, 1971, and before the expiration of 60 days 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.

(3) 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.

(4) 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 relative to the bill of particulars or contents of the complaint, is in all respects valid.

[1971 c.280 §17]

107.150 [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; repealed by 1971 c.280 §28]

107.160 [Amended by 1963 c.497 §4; repealed by 1971 c.280 §28]

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 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 as defense. 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]

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. Except as provided in subsection (2) of ORS 107.415, 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.

[Amended by 1971 c.314 §2]

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 appellate courts may award attorney's fees.

[Amended by 1971 c.280 §23]

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.

DISSOLUTION, ANNULMENT AND SEPARATION PROCEEDINGS GENERALLY

107.405 Powers of court in dissolution, separation or annulment proceedings. When a court is sitting in proceedings for annulment or dissolution of a marriage, or for separation, it shall have full equity powers. [1971 c.280 §1]

107.410 [1961 c.418 §1; repealed by 1971 c.280 §28]

107.415 Notice of change of status of minor child required; effect of failure to give notice. (1) If a party is required by a decree of a court in a domestic relations suit, as defined in ORS 107.510, to contribute to the support, nurture or education of a minor child while the other party has custody thereof, the custodial parent shall notify the party contributing such money when the minor child receives income from his own gainful employment, or is married or enters the military service.

(2) Any custodial parent who does not provide notice, as required by subsection (1) of this section may be required by the court to make restitution to the contributing party of any money paid, as required by the decree. The court may enter a judgment or satisfy all or part of any accrued judgment to accomplish the restitution.

[1971 c.314 §1]

107.420 [1961 c.340 §1; repealed by 1971 c.280 §28]

107.425 Investigation of parties in domestic relations suit involving welfare of children; counsel for children; staff. (1) Whenever a domestic relations suit is filed, or whenever a habeas corpus proceeding or motion to modify an existing decree in a domestic relations suit is before the court, the court having jurisdiction may, in cases in which there are minor 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 suit for the purpose of protecting the children's future interest. The court may defer the entry of a final decree until the court is satisfied that its decree in such suit will properly protect the welfare of such children. The investigative findings shall be offered as and subject to all rules of evidence.

(2) The court, on its own motion, may:

(a) Cite either party to the suit to appear and testify as a witness during this investigation; and

(b) Appoint counsel for the children. A reasonable fee for an attorney so appointed may be charged against either or both of the parties or as a cost in the proceedings.

(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.

[1971 c.280 §3]

107.430 [Formerly 107.180; amended by 1963 c.223 §1; repealed by 1971 c.280 §28]

107.435 Certain annulment and dissolution provisions apply to separation suits. The provisions of ORS 107.085, 107.405, 107.425, and paragraph (b) of subsection (1) of ORS 107.105 shall apply to suits brought under the provisions of ORS 107.210 to 107.320.

[1971 c.280 §19]

107.440 [1963 c.434 §14; 1965 c.386 §1; repealed by 1971 c.280 §28]

107.445 Attorney fees in certain domestic relations proceedings. In any proceeding brought under ORS 108.110 and 108.120, and in any contempt proceeding brought to compel compliance with any orders authorized by ORS 107.095, or with the decree in any suit to annul or dissolve a marriage or for separation the court may make an order awarding to a party a sum of money determined to be reasonable as an attorney 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.

[1971 c.280 §18]

107.450 [1963 c.434 §13; 1965 c.386 §2; repealed by 1971 c.280 §28]

CONCILIATION SERVICES

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

(1) "Conciliation jurisdiction" means domestic relations conciliation jurisdiction and authority referred to under ORS 21.112 and exercised under 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; 1971 c.280 §24]

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 referred to in ORS 21.112 and exercised under ORS 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; 1971 c.280 §25]

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.

[1963 c.434 §4; 1971 c.280 §26]

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 referred to in ORS 21.112 and exercised under ORS 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 sciences 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; 1971 c.280 §27]

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, 1971.

Robert W. Lundy
Legislative Counsel