

2013 OREGON LEGISLATION HIGHLIGHTS

DOMESTIC RELATIONS LAW

Ryan Carty
Saucy & Saucy, P.C.
October 2013

The author acknowledges Susan Grabe and the Oregon State Bar Public Affairs staff for their invaluable assistance throughout the 2013 legislative session.

I. INTRODUCTION

II. ADMINISTRATIVE SUPPORT PROCEEDINGS

- A. SB 589 (ch 183) Entry of administrative support modifications
- B. SB 591 (ch 185) Impact of dismissal of pending domestic action on administrative support order between the same parties

III. NAME CHANGES

- A. SB 406 (ch 341) Permits additional changes to a party's name when entering into marriage or registered domestic partnership
- B. HB 2226 (ch 316) Removes public notice requirement of name change proceedings involving survivors of domestic violence

IV. PROTECTIVE PROCEEDINGS

- A. HB 2378 (ch 71) Permits a parent or guardian of a minor to file a petition for a protective proceeding within 90 days before the minor will attain majority
- B. HB 2570 (ch 99) Attorney fees in protective proceedings (*Derkatsch* fix)
- C. HB 3249 (ch 436) Grandparent rights in dependency proceedings
- D. HB 3363 (ch 439) Requires DHS case plan disclosure to parties

V. OTHER DOMESTIC RELATIONS BILLS

- A. SB 239 (ch 171) Addition of documentation evidencing VIN to ORS 107.089 discovery request
- B. SB 444 (ch 361) Smoking in a vehicle with a minor present is a ticketable offense
- C. SB 491 (ch 178) Permits minor child to consent to outpatient mental health and chemical dependency treatment services
- D. SB 601 (ch 231) Authorizes relative caregiver to consent to medical treatment and education services for minor child

- E. HB 2433 (ch 72) Prohibits court from considering party's disability in determining child custody or establishing an appropriate parenting plan unless court finds behaviors or limitations related to party's disability endanger or will endanger health, safety or welfare of child

- F. HB 2571 (ch 126) Changes recommended by OSB Family Law Section
 - 1. Termination of spousal support obligation upon the death of either party
 - 2. Financial orders of restraint and ORS chapter 109

- G. HB 2572 (ch 127) Changes recommended by OSB Family Law Section
 - 1. Permits an award of attorney fees in actions relating to enforcement of life insurance provisions
 - 2. Rights and responsibilities of unmarried parents

- H. HB 3263 (ch 613) Paid leave for State of Oregon employees who are victims of domestic violence, harassment, sexual assault or stalking

- I. HB 2205 (ch 352) Elder abuse reporting requirement

I. INTRODUCTION

The 2013 legislative session resulted in numerous statutory changes impacting the family law practice area. The process for entry of administrative support orders has been streamlined. Dismissal of a pending domestic action will no longer disrupt administrative support orders between the same parties. Parties now have more options for making changes to their names when marrying or registering for a domestic partnership, which impacts (but does not change) the court's authority in a judgment of marital annulment, dissolution or separation to change the name of either spouse to a name the spouse held before the marriage (or domestic partnership) if requested by that party. Survivors of domestic violence seeking to change their names are no longer subject to the mandatory public notice posting requirement. Parents and guardians are now explicitly authorized to file petitions for protective proceedings within 90 days before the minor in that person's care will attain majority. Payment of attorney fees is authorized in protective proceedings. Grandparents are entitled to notice of dependency proceedings in certain cases. DHS is now required to disclose case plans to all parties, generally within 10 days. The statutory discovery required in separation or dissolution proceedings now includes documents evidencing VINs for vehicles covered by the statute. Smoking in a vehicle with a minor present is now a ticketable offense. Minor children (14 years of age or older) may now consent to outpatient mental health and chemical dependency treatment services. Relative caregivers may now provide consent to medical treatment and education services for a minor child in that person's care. Courts are prohibited from considering a party's disability in determining custody or an appropriate parenting plan unless there is a specific finding that behaviors or limitations related to the party's disability endanger (or will endanger) the health, safety or welfare of the child. Spousal support now terminates as a matter of law upon the death of

either party, unless the support judgment specifies otherwise. The statutory order of restraint that applies automatically once an ORS chapter 109 case is filed is now specific to the issues relevant to unmarried parent cases. Attorney fee awards are now statutorily authorized in actions relating to enforcement of life insurance provisions in support judgments. ORS chapter 109 has been updated to make the life insurance provisions of ORS chapter 107 applicable to unmarried parents. State of Oregon employees who are victims of domestic violence, harassment, sexual assault or stalking are now able to utilize additional paid leave after exhausting other avenues for time off from work. Attorneys are now mandatory reporters of elder abuse.

All bills are effective January 1, 2014, unless stated otherwise.

II. ADMINISTRATIVE SUPPORT PROCEEDINGS

A. SB 589 (ch 183) Entry of administrative support modifications

ORS Chapter 440 provides authority for the Oregon Child Support Program to establish and modify child support orders utilizing administrative procedures. Current law requires that a judge must review a proposed administrative modification and sign a separate order approving it before it takes effect, *but only if the previous order was determined in court*. This procedure deviates from modifications of orders that were originally issued by the Child Support Program, which are simply filed in court without any need for judicial approval.

SB 589 removes the requirement for separate judicial approval of administrative modifications. The result of this bill is that administrative modifications will become effective upon filing with the court, regardless of how the original child support order originated (i.e., administrative process or court-ordered). The bill makes no change to each party's right to appeal the administrative order and request a hearing in circuit court within 60 days of the date the order was

entered.

B. SB 591 (ch 185) Impact of dismissal of pending domestic action on administrative support order between the same parties

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

III. NAME CHANGES

A. SB 406 (ch 341) Permits additional changes to a party's name when entering into marriage or registered domestic partnership

ORS 106.220 provides authority for a party entering into marriage to make changes to that party's name. The statute specifies various naming options, including retaining a party's surname, changing a surname to the other's party's surname or combining surnames with a hyphen. ORS 106.335 sets forth similar authority and rules in the context of registered domestic partnerships.

SB 406 amends both ORS 106.220 and 106.335 to provide expanded naming options, largely relating to retention of or changes to middle names. The new options include retaining a party's middle name, removing a middle name, changing the party's middle name to the party's surname at birth or prior to the marriage, or adding to the party's middle name the party's surname at birth or prior to the marriage and simultaneously changing the party's surname to the surname of the other party.

Any name changes requested after marriage or registration of a domestic partnership must still follow the procedure set forth in ORS 33.410, *et. seq.* SB 406 makes no change to the court's

authority in a judgment of marital annulment, dissolution or separation to change the name of either spouse to a name the spouse held before the marriage (or domestic partnership) if requested by that party.¹

This bill became effective as of June 6, 2013.

B. HB 2226 (ch 316) Removes public notice requirement of name change proceedings involving survivors of domestic violence

ORS 33.410, *et. seq.* provides the framework for name changes that do not occur as part of a marriage, registration of domestic partnership, dissolution or annulment. ORS 33.420(1) previously provided that in all instances a party requesting a name change would be required to post public notice of the application and subsequently post another public notice of the change after entry of the judgment changing the party's name.

HB 2226 amended ORS 33.410 to mandate that courts waive the public notice requirement upon request of an applicant if that person is a certified adult program participant in the Address Confidentiality Program under ORS 192.826, unless the court issues an order requiring public notice pursuant to a finding of good cause.² Oregon's Address Confidentiality Program was created to help survivors of domestic violence avoid attempts from abusers to locate them. HB 2226 essentially provides assistance to survivors of domestic violence who wish to change their names so those name changes are not made public and accessible to their abusers.

This bill became effective as of June 6, 2013.

¹ ORS 107.105(h).

² Good cause, for purposes of this statute, is defined by ORS 192.848. That statute essentially provides that disclosure may occur when it is sought for a lawful purpose that outweighs the risk of disclosure, or in cases where disclosure is required as part of a registration for sex offenders.

IV. PROTECTIVE PROCEEDINGS

A. HB 2378 (ch 71) Permits a parent or guardian of a minor to file a petition for a protective proceeding within 90 days before the minor will attain majority

ORS chapter 125 provides a comprehensive framework for creating and maintaining guardianships, conservatorships and other protective proceedings. ORS 125.055 sets forth the procedure for preparing and filing a petition in such proceedings. That statute was non-specific as to whether a parent could file a petition seeking appointment as guardian of an adult child *prior* to the child reaching the age of majority. HB 2378 clarifies that it is permissible for a parent or guardian of a minor to file a petition that seeks the appointment of a guardian for the minor as an adult at any time within 90 days before the date the minor will attain majority or at any other time determined by the court to be necessary and appropriate to ensure the minor's ongoing protection, safety and welfare. A guardianship filed for a minor who will soon become an adult is not effective until the date the minor attains majority.

This bill became effective as of May 9, 2013.

B. HB 2570 (ch 99) Attorney fees in protective proceedings (*Derkatsch* fix)

In 2012, the Oregon Court of Appeals ruled that ORS 125.095 does not authorize the payment of attorney fees incurred before a protective order has been entered for services rendered in a financial abuse case brought on the protected person's behalf.³ In other words, attorneys cannot be paid for the pre-order work they undertake on a potential protected person's behalf (e.g., legal research, drafting petitions and other paperwork, court appearances, etc.), even if that person is

³ *In re Derkatsch*, 248 Or App 185, 273 P2d 204 (2012).

subsequently deemed by the court to be in need of protection.

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

C. HB 3249 (ch 436) Grandparent rights in dependency proceedings

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

D. HB 3363 (ch 439) Requires DHS case plan disclosure to parties

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

V. OTHER DOMESTIC RELATIONS BILLS

A. SB 239 (ch 171) Addition of documentation evidencing VIN to ORS 107.089 discovery request

A party in a suit for legal separation or for dissolution has the option of serving on the other party a copy of ORS 107.089 (statutory discovery). If a copy of the statute is served on the other party, the party upon whom it was served must provide the following documents, generally within 30 days of the date of service⁴: 1) Tax returns for the last three years; 2) If no tax returns were filed, then all W-2 statements, year-end payroll statements, interest and dividend statements and all other records showing income earned; 3) Financial statement of net worth and credit card and loan applications for the previous two years; 4) Deeds of property and real estate contracts, appraisals and most recent statement of assessed value that either party has an interest in; 5) Documents showing the debts of either party; 6) Documents showing stocks, bonds secured notes, mutual funds and other investments; 7) Retirement plans; and 8) Financial institution or brokerage accounts.

SB 239 amends ORS 107.089 to include documentation evidencing the vehicle identification number (VIN) or other unique identifying number (e.g., hull identification number for boats) for all automobiles, motor vehicle and boats covered by the statutory discovery request.

B. SB 444 (ch 361) Smoking in a vehicle with a minor present is a ticketable offense

SB 444 makes smoking inside a vehicle with a minor present a Class D traffic violation. Smoking is defined by the bill as inhaling, exhaling, burning or carrying a lighted cigarette, cigar,

⁴ The party served with a copy of the statute shall provide the required discovery no later than 30 days after service. If a support hearing is pending fewer than 30 days after service, however, the party upon whom a copy of the statute was served is required to provide tax returns, income information, financial statements, statements of net worth and credit card and loan applications no later than three judicial days before the hearing. The remaining documents are still due within the 30 day time frame. ORS 107.089.

pipe, weed, plant, regulated narcotic or other combustible substance. This is a secondary offense, which means a police officer may enforce the law only if the officer has already stopped and detained the driver operating the motor vehicle for a separate traffic violation or other offense.

C. SB 491 (ch 178) Permits minor child to consent to outpatient mental health and chemical dependency treatment services

ORS 109.675 currently allows a minor child 14 years of age or older to obtain, without parental knowledge or consent, outpatient diagnosis or treatment of mental or emotional disorders or chemical dependency by a physician, psychologist, nurse practitioner and licensed clinical social worker. SB 491 adds to that list of treatment professionals professional counselors or marriage and family therapists licensed by the Oregon Board of Licensed Professional Counselors and Therapists. The bill also exempts professional counselors and marriage and family therapists from civil liability for certain disclosures and provision of diagnosis or treatment to minors.

D. SB 601 (ch 231) Authorizes relative caregiver to consent to medical treatment and education services for minor child

SB 601 creates new law providing legal authority for relative caregivers⁵ of minor children to consent to medical treatment and education services for minor children left in their care. In order to act under the authority granted by this new law, the individual seeking to attain the legal designation of relative caregiver must first complete an affidavit that contains the following information:

1. The name of the minor child;

⁵ A relative caregiver is defined as:

[A] competent adult who is 18 years of age or older, who is related to a minor child by blood, marriage or adoption, who is not the legal parent or guardian and who represents in the affidavit described in section 4 of this 2013 Act that the minor child lives with the adult and that the adult is responsible for the care of the minor child.

2. The minor child's date of birth;
3. The relative caregiver's name and date of birth and the address at which the relative caregiver lives with the minor child;
4. The relationship of the relative caregiver to the minor child;
5. The Oregon driver license or identification card number of the relative caregiver;
6. The contact information of the legal parent or guardian;
7. A description of any attempts the relative caregiver has made to advise the legal parent or guardian of the relative caregiver's intent to consent to medical treatment or educational services for the minor child and of any response provided by the legal parent or guardian;
8. If applicable, the reason why the relative caregiver is unable to contact the legal parent or guardian to advise the legal parent or guardian of the relative caregiver's intent to consent to medical treatment or educational services for the minor child;
9. The date the relative caregiver signed the affidavit; and
10. A declaration under penalty of perjury that the named minor child lives with the relative caregiver, that the relative caregiver is a competent adult and 18 years of age or older and that the information provided in the affidavit is true and correct.

Upon completion of the required affidavit, the relative caregiver may:

1. Consent to medical treatment, including developmental screening, mental health screening and treatment, ordinary and necessary medical, dental and optical examination and treatment and preventive care including ordinary immunizations, tuberculin testing and well-child care, and includes the examination for and treatment of any injury, symptom, disease or pathology that is, in the judgment of the treating health care provider, reasonably necessary; and
2. Enroll a minor child in a school; and
3. Consent for a minor child to participate in any school activities, including extracurricular activities.

The language set forth in the bill contemplates that the relative caregiver may only act after reasonable efforts have been made to obtain the consent of the legal parent or guardian to the specific

treatment or services, and only if such consent cannot be obtained. That means the relative caregiver needs to make reasonable efforts to obtain the consent of the legal parent or guardian before each instance of taking action pursuant to the authority set forth in this law. There is no requirement that the relative caregiver complete a new affidavit on every such occasion, merely that he or she make an attempt to obtain consent.

SB 601 provides the following provisions that define responsibilities and liabilities for actions taken pursuant to the relative caregiver's authority:

1. A relative caregiver is liable to the health care provider or school for payment for services provided pursuant to the relative caregiver's consent. A relative caregiver may seek reimbursement from the legal parent or guardian.
2. Consent of a relative caregiver is immediately superseded by any contravening decision of the legal parent or guardian, provided the decision does not threaten the life, health or safety of the minor child.
3. If the minor child stops living with the relative caregiver, the relative caregiver has an immediate obligation to notify any health care provider or school that has been given a relative caregiver affidavit of the change in residence. The affidavit is invalid immediately upon receipt by the health care provider or school of the notice.
4. A relative caregiver affidavit expires automatically one year after the date it is given to a health care provider or school by a relative caregiver. If the date the affidavit is given to a health care provider or school is unknown or uncertain, it shall expire one year after the date the relative caregiver signs the affidavit.
5. A health care provider or school may, *but is not required to*, rely on the representations or affidavit of a person claiming to be a relative caregiver if the health care provider or school does not have actual notice of the falsity of any of the statements or documentation made or provide by the person claiming to be a relative caregiver.
6. A health care provider or school may, *but is not required to*, request documentation of a person's claimed status as a relative caregiver and of attempts made to obtain the consent of the legal parent or guardian.
7. A relative caregiver acting in good faith with reasonable grounds to provide consent

for medical treatment or education services pursuant to a relative caregiver affidavit is not subject to criminal or civil liability that might otherwise be incurred or imposed for giving consent to such services.

This bill became effective as of May 23, 2013.

- E. HB 2433 (ch 72) Prohibits court from considering party's disability in determining child custody or establishing an appropriate parenting plan unless court finds behaviors or limitations related to party's disability endanger or will endanger health, safety or welfare of child**

HB 2433 amends ORS 107.137 to specifically provide that if a party has a disability (as defined by the Americans with Disabilities Act of 1990⁶), the court may not consider that party's disability in determining custody *unless* the court makes a finding that the party's behaviors or limitations that are related to the party's disability are presently endangering or will in the future likely endanger the child's health, safety or welfare. HB 2433 makes a similar amendment to ORS 107.105(1)(b) relating to establishing parenting time and parenting time rights for noncustodial parents.

- F. HB 2571 (ch 126) Changes recommended by OSB Family Law Section**

- 1. Termination of spousal support obligation upon the death of either party**

The first portion of HB 2571 specifically terminates, as a matter of law, spousal support upon the death of either party *unless otherwise expressly provided in the judgment*. The change is consistent with Oregon case law and federal tax law.⁷ Practitioners and parties can still include provisions in a judgment that will make payments continue after death, if they desire to do so, and courts would still retain the authority to do so if appropriate.

⁶ 42 U.S.C. 12101, *et seq.*

⁷ See, for example, *Miller and Miller*, 207 Or App 198, 203, 140 P3d 1172 (2006); IRC § 71(b)(1)(D).

2. Financial orders of restraint and ORS chapter 109

ORS 109.103 provides that only those provisions of ORS 107.093 that relate to custody, support and parenting time apply to the custody proceeding. The insurance terms of ORS 107.093 presumably apply because health insurance directly relates to support via the ORS 25.275 computation. Life insurance also relates to support because of the provisions of ORS 107.810:

"It is the policy of the State of Oregon to encourage persons obligated to support other persons as the result of a dissolution or annulment of marriage or as the result of a legal separation to obtain or to cooperate in the obtaining of life insurance adequate to provide for the continued support of those persons in the event of the obligor's death."

ORS 107.820 provides that, "A court order for the payment of [...] child support [...] constitutes an insurable interest in the party awarded the right to receive the support."

The provisions of ORS 107.093(c) presumably do not apply because they deal with transferring, encumbering, concealing or disposing of property in which the other party has an interest. An unmarried parent who has an interest in the other parent's property would presumably file a Dissolution of Domestic Partnership proceeding under ORS Chapter 106, rather than a Petition for Custody, Parenting Time, and/or Child Support under ORS Chapter 109.

The provisions of ORS 107.093(d) might apply. This part of the statute restrains each party from making extraordinary expenditures without providing written notice and an accounting of such expenditures of the other party. Extraordinary expenditures would theoretically impact the obligor's ability to pay support and the obligee's need for support. These two factors would be most applicable in determining whether a rebuttal is appropriate. Both factors, therefore, arguably do relate to support, although most practitioners would say unmarried couples need not be restrained from making extraordinary expenditures because the question is typically one of income, not of resources.

Because ORS 107.093 is unclear as to what provisions apply to ORS 109 proceedings, the Oregon State Bar Family Law Section proposed legislation to clarify this issue. The second portion of HB 2571 excludes ORS 107.093 from the ORS chapter 107 provisions that apply to ORS chapter 109 cases. The bill concurrently creates new provisions in ORS chapter 109 that impose specific restrictions on parties in a custody and parenting time case that are more appropriate for the dynamics of a case involving unmarried parents who have no legal interest in the other party's property and where there is no legal basis for a division of either party's property. The amendment specifically restrains both parties in an ORS chapter 109 proceeding from the following actions after the petition is filed and served:

1. Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary; and
2. Changing beneficiaries or covered parties under any policy of health insurance that one party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

Any party to an ORS chapter 109 proceeding has the ability to request temporary orders from the court that include modification or revocation of the statutory restraining orders.

G. HB 2572 (ch 127) Changes recommended by OSB Family Law Section

1. Permits an award of attorney fees in actions relating to enforcement of life insurance provisions

As currently written, ORS 107.810 through 107.830 establishes the court's authority to order a payor of support to obtain life insurance to provide continuing support in the event of the obligor's death when parents were married. There is no present authority for the court to award attorney fees in the event court action is necessary to obtain the benefits of such a policy in the event the obligor

dies without the ordered amount of coverage or if the obligee is not named as a beneficiary. The first section of HB 2572 provides courts with the authority to make an award of attorney fees in an action to enforce a court-ordered requirement that the obligor maintain life insurance.

2. Rights and responsibilities of unmarried parents

As currently written, ORS 109.103 cross references provisions of ORS chapter 107 that pertain to custody, support and parenting time. During the 2009 session, the legislature passed HB 2686 (at the OSB Family Law Section's request), which updated ORS 109.103's references to chapter 107. That bill overlooked ORS 107.810 through 107.830, which establish the court's authority to order a payor of support to obtain life insurance to provide continuing support in the event of the obligor's death when parents were married. Such a requirement is appropriate for unmarried parents as well as formerly married parents. The second portion of HB 2572 extends existing policy equally to parents that were married and those who were unmarried.

H. HB 3263 (ch 613) Paid leave for State of Oregon employees who are victims of domestic violence, harassment, sexual assault or stalking

HB 3263 creates new law that permits an employee of the State of Oregon who is a victim of domestic violence, harassment, sexual assault or stalking to take up to 160 hours of leave with pay each calendar year *after* exhausting all other forms of paid leave available to the employee. The bill requires a number of affirmative actions on the part of the State of Oregon, as an employer, pertaining to notification of employees.

This bill became effective as of July 2, 2013.

I. HB 2205 (ch 352) Elder abuse reporting requirement

HB 2205 amends ORS 124.050 to include members of the Oregon Legislative Assembly,

attorneys, dentists, optometrists and chiropractors to the list of individuals who must report elderly abuse. The statute exempts attorneys and members of the clergy from reporting elderly abuse if the information was obtained pursuant to their respective professional capacities. The duty to report extends to all hours, not just when working in a professional capacity.

The Oregon State Bar is required by the bill to adopt minimum training standards for lawyers regarding elder abuse.

This bill became effective as of June 11, 2013.

Notice Required By ORS 107.089

Oregon law requires that:

1. Each party in a suit for legal separation or for dissolution shall provide to the other party copies of the following documents in their possession or control:
 - (a) All federal and state income tax returns filed by either party for the last three calendar years;
 - (b) If income tax returns for the last calendar year have not been filed, all W-2 statements, year-end payroll statements, interest and dividend statement and all other records of income earned or received by either party during the last calendar year;
 - (c) All records showing any income earned or received by either party for the current calendar year;
 - (d) All financial statements, statements of net worth and credit card and loan applications prepared by or for either party during the last two calendar years;
 - (e) All documents such as deeds, real estate contracts, appraisals and most recent statements of assessed value relating to real property in which either party has any interest;
 - (f) All documents showing debts of either party, including the most recent statement of any loan, credit line or charge card balance due;
 - (g)
 - A. Certificates of title or registrations of all automobiles, motor vehicles, boats or other personal property registered in either party's name or in which either party has any interest;
 - B. For all automobiles, motor vehicles and boats describes in subparagraph (A) of this paragraph, documentation evidencing the vehicle identification number or other unique identifying number.
 - (h) Documents showing stocks, bonds, secured notes, mutual funds and other investments in which either party has any interest;
 - (i) The most recent statement describing any retirement plan, IRA pension plan, profit-sharing plan, stock option plan or deferred compensation plan in which either party has an interest; and
 - (j) All bank, credit union or brokerage account records on any account in which either party has had any interest or signing privileges in the past year, whether or not the account is currently opened or closed.
- 2.(a) Except as otherwise provided in paragraph (b) of this subsection, the party shall provide the information in paragraph 1 to the other party no later than 30 days after service of the petition.
- (b) If a support hearing is pending fewer than 30 days after service of the petition, the party shall provide the information listed in paragraph 1 (a) to (d) hereof no later than three judicial days before the hearing.
- 3.(a) If a party does not provide information as required by 1 and 2 above, the other party may apply for a motion to compel as provided in ORCP 46.
- (b) Notwithstanding ORCP 46A(4), if the motion is granted and the court finds that there was willful noncompliance with the requirements of paragraphs 1 and 2 hereof, the court shall require the party whose conduct necessitated the motion or the party or attorney advising the action, or both, to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees.
4. If a date for a support hearing has been set and the information listed in paragraph 1(a) to (d) hereof has not been provided as required by paragraph 2:
 - (a) By the obligor, the judge shall postpone the hearing, if requested to do so by the obligee, and provide in any future order for support that the support obligation is retroactive to the date of the original hearing; or
 - (b) By the obligee, the judge shall postpone the hearing, if requested to do so by the obligor, and provide that any support order in a future hearing may be prospective only.
5. The provisions hereof do not limit in any way the discovery provisions of the Oregon Rules of Civil Procedure or any other discovery provision of Oregon law.

NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING CHANGES TO INSURANCES IN DOMESTIC RELATIONS ACTIONS

TO THE PETITIONER AND RESPONDENT:

REVIEW THIS NOTICE CAREFULLY. **BOTH PARTIES MUST OBEY EACH PROVISION OF THIS ORDER TO AVOID VIOLATION OF THE LAW.** SEE INFORMATION ON YOUR RIGHTS TO A HEARING BELOW.

PURSUANT TO ORS 109.103, Petitioner and Respondent are restrained from:

1. Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary; and
2. Changing beneficiaries or covered parties under any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.

AFTER FILING OF THE PETITION, THE ABOVE PROVISIONS ARE IN EFFECT IMMEDIATELY UPON SERVICE OF THE SUMMONS AND PETITION UPON THE RESPONDENT. THESE PROVISIONS REMAIN IN EFFECT UNTIL A FINAL DECREE OR JUDGMENT IS ISSUED, UNTIL THE PETITION IS DISMISSED, OR UNTIL FURTHER ORDER OF THE COURT.

RIGHT TO REQUEST A HEARING

Either Petitioner or Respondent may request a hearing to apply for further temporary orders, or to modify or revoke one or more terms of this automatic mutual restraining order, by filing with the court a request for hearing and paying the clerk the statutory first appearance fee. The court will not accept the objection (i.e., it will be ineffective) unless the appearance fee is paid. You must also mail a copy of the objection to Petitioner's attorney. The objection applies only to this order and has no impact on requests that Petitioner may have made in a motion for temporary relief or the underlying petition.