

§ 107.169¹

Joint custody of child

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(1) As used in this chapter, "joint custody" means an arrangement by which parents share rights and responsibilities for major decisions concerning the child, including, but not limited to, the child's residence, education, health care and religious training. An order providing for joint custody may specify one home as the primary residence of the child and designate one parent to have sole power to make decisions about specific matters while both parents retain equal rights and responsibilities for other decisions.

(2) The existence of an order of joint custody shall not, by itself, determine the responsibility of each parent to provide for the support of the child.

(3) The court shall not order joint custody, unless both parents agree to the terms and conditions of the order.

(4) When parents have agreed to joint custody in an order or a judgment, the court may not overrule that agreement by ordering sole custody to one parent.

(5) Modification of a joint custody order shall require showing of changed circumstances and a showing that the modification is in the best interests of the child such as would support modification of a sole custody order. Inability or unwillingness to continue to cooperate shall constitute a change of circumstances sufficient to modify a joint custody order.

(6)(a) The inability of a parent to comply with the terms and conditions of a joint custody order due to the parent's temporary absence does not constitute a change of circumstances if the parent's temporary absence is caused by the parent being:

(A) Called into active state duty as defined in [ORS 398.002 \(Definitions for this chapter and ORS 396.120, 396.145, 399.205 and 399.515\)](#); or

(B) Called into active federal service under Title 10 of the United States Code as a member of the Oregon National Guard.

(b) As used in this subsection, "temporary absence" means a period not exceeding 30 consecutive months. [1987 c.795 §6; 2003 c.576 §114; 2005 c.79 §3]