

§ 107.425¹

Investigation of parties in domestic relations suit involving children

- physical, psychological, psychiatric or mental health examinations**
- parenting plan services**
- counsel for children**

(1) In suits or proceedings described in subsection (4) of this section in which there are minor children involved, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability and financial worth of the parties for the purpose of protecting the children's future interest. The court may defer the entry of a general judgment until the court is satisfied that its judgment in such suit or proceeding will properly protect the welfare of such children. The investigative findings shall be offered as and subject to all rules of evidence. Costs of the investigation may be charged against one or more of the parties or as a cost in the proceedings but shall not be charged against funds appropriated for public defense services.

(2) The court, on its own motion or on the motion of a party, may order an independent physical, psychological, psychiatric or mental health examination of a party or the children and may require any party and the children to be interviewed, evaluated and tested by an expert or panel of experts. The court may also authorize the expert or panel of experts to interview other persons and to request other persons to make available to the expert or panel of experts records deemed by the court or the expert or panel of experts to be relevant to the evaluation. The court may order the parties to authorize the disclosure of such records. In the event the parties are unable to stipulate to the selection of an expert or panel of experts to conduct the examination or evaluation, the court shall appoint a qualified expert or panel of experts. The court shall direct one or more of the parties to pay for the examination or evaluation in the absence of an agreement between the parties as to the responsibility for payment but shall not direct that the expenses be charged against funds appropriated for public defense services. If more than one party is directed to pay, the court may determine the amount that each party will pay based on financial ability.

(3)(a) In addition to an investigation, examination or evaluation under subsections (1) and (2) of this section, the court may appoint an individual or a panel or may designate a program to assist the court in creating parenting plans or resolving disputes regarding

parenting time and to assist parents in creating and implementing parenting plans. The services provided to the court and to parents under this section may include:

(A) Gathering information;

(B) Monitoring compliance with court orders;

(C) Providing the parents, their attorneys, if any, and the court with recommendations for new or modified parenting time provisions; and

(D) Providing parents with problem solving, conflict management and parenting time coordination services or other services approved by the court.

(b) Services provided under this section may require the provider to possess and utilize mediation skills, but the services are not comprised exclusively of mediation services under ORS [107.755 \(Court-ordered mediation\)](#) to [107.795 \(Availability of other remedies\)](#). If only mediation services are provided, the provisions of ORS [107.755 \(Court-ordered mediation\)](#) to [107.795 \(Availability of other remedies\)](#) apply.

(c) The court may order one or more of the parties to pay for services provided under this subsection, if the parties are unable to agree on their respective responsibilities for payment. The court may not order that expenses be charged against funds appropriated for public defense services.

(d) The presiding judge of each judicial district shall establish qualifications for the appointment and training of individuals and panels and the designation of programs under this section. In establishing qualifications, a presiding judge shall take into consideration any guidelines recommended by the statewide family law advisory committee.

(4) The provisions of this section apply when:

(a) A person files a domestic relations suit, as defined in ORS [107.510 \(Definitions for ORS 107.510 to 107.610\)](#);

(b) A motion to modify an existing judgment in a domestic relations suit is before the court;

(c) A parent of a child born to an unmarried woman initiates a civil proceeding to determine custody or support under ORS [109.103 \(Proceeding to determine custody or support of child\)](#);

(d) A person petitions or files a motion for intervention under ORS [109.119 \(Rights of person who establishes emotional ties creating child-parent relationship or ongoing personal relationship\)](#);

(e) A person or the administrator files a petition under ORS [109.125 \(Who may initiate proceedings\)](#) to establish paternity and paternity is established; or

(f) A habeas corpus proceeding is before the court.

(5) Application of the provisions of subsection (1), (2) or (3) of this section to the proceedings under subsection (4) of this section does not prevent initiation, entry or enforcement of an order of support.

(6) The court, on its own motion or on the motion of a party, may appoint counsel for the children. However, if requested to do so by one or more of the children, the court shall appoint counsel for the child or children. A reasonable fee for an attorney so appointed may be charged against one or more of the parties or as a cost in the proceedings but shall not be charged against funds appropriated for public defense services.

(7) Prior to the entry of an order, the court on its own motion or on the motion of a party may take testimony from or confer with the child or children of the marriage and may exclude from the conference the parents and other persons if the court finds that such action would be likely to be in the best interests of the child or children. However, the court shall permit an attorney for each party to attend the conference and question the child, and the conference shall be reported. [1971 c.280 §3; 1973 c.502 §11; 1981 c.775 §5; 1981 s.s. c.3 §34; 1983 c.369 §1; 1983 c.386 §1; 1989 c.188 §1; 1989 c.1084 §1; 1999 c.569 §4; 2001 c.873 §§6,6a,6c; 2003 c.73 §§51,52; 2003 c.576 §§121,122; 2007 c.454 §12]