

DRAFT "VIRTUAL VISITATION" BILL

Amends Chapter 107 - Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services; Family Abuse Prevention and Chapter 109 – Parent and Child Rights and Relationships of the Oregon Family Code:

74th OREGON LEGISLATIVE ASSEMBLY--2007 Regular Session

Sponsored by COMMITTEE ON RULES (at the request of Dave Nelson)

AN ACT

Relating to Electronic Communication between the child and the parents; creating new provisions; and amending ORS 107.102, 107.138, 107.159, 107.718, 109.119, 109.332, 109.704 and 109.784.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 107.102 is amended to read:
107.102 Parenting plans; contents.

(3) A detailed parenting plan may include, but need not be limited to, provisions relating to:

- (a) Residential schedule;
- (b) Holiday, birthday and vacation planning;
- (c) Weekends, including holidays, and school in-service days preceding or following weekends;
- (d) Decision-making and responsibility;
- (e) Information sharing and access;
- (f) Relocation of parents;
- (g) Electronic Communication Telephone access;
- (h) Transportation; and
- (i) Methods for resolving disputes.

(4) (a) The court shall develop a detailed parenting plan when:

- (A) So requested by either parent; or
- (B) The parent or parents are unable to develop a parenting plan.

(b) In developing a parenting plan under this subsection, the court may consider only the best interests of the child and the safety of the parties. [1997 c.707 2]

SECTION 2. ORS 107.138 is amended to read:
107.138 Temporary status quo order regarding child custody.

(d) Interfering with the other parents usual contact, ~~and~~ parenting time and any electronic communication with the child;

SECTION 3. ORS 107.159 is added to read:
107.159 Notice of change of residence.

(3) The court may not use the availability of Electronic Communication as a factor to justify or in support of a relocation by the custodial parent out of the immediate area or state

SECTION 4. ORS 107.718 is amended to read:
107.718 Restraining order; forms; service of order; request for hearing

(6) If the court awards parenting time to a parent who committed abuse, the court shall make adequate provision for the safety of the child and of the petitioner. The order of the court may include, but is not limited to, the following:

(a) That exchange of a child between parents shall occur at a protected location.

(b) That parenting time and any electronic communication be supervised by another person or agency.

(c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or any other counseling program designated by the court as a condition of the parenting time.

(d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances during the parenting time and for 24 hours preceding the parenting time.

(e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting time and any electronic communication, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

SECTION 5. ORS 109.119 is amended to read:

109.119 Rights of person who establishes emotional ties creating child-parent relationship or ongoing personal relationship; presumption regarding legal parent; motion for intervention.

(3) (a) If the court determines that a child-parent relationship exists and if the court determines that the presumption described in subsection (2) (a) of this section has been rebutted by a preponderance of the evidence, the court shall grant custody, guardianship, right of visitation, and any electronic communication or other right to the person having the child-parent relationship, if to do so is in the best interest of the child. The court may determine temporary custody of the child or temporary visitation rights under this paragraph pending a final order.

(b) If the court determines that an ongoing personal relationship exists and if the court determines that the presumption described in subsection (2) (a) of this section has been rebutted by clear and convincing evidence, the court shall grant visitation or contact rights to the person having the ongoing personal relationship, if to do so is in the best interest of the child. The court may order temporary visitation or contact rights under this paragraph pending a final order.

(c) The court may grant a reasonable amount of Electronic Communication at reasonable hours to either or both parents when the child is not in the parent's physical custody if the equipment is reasonably available.

(d) Electronic Communication with the child may be used only to supplement a parent's periods of parenting time with the child. Electronic Communication may not be used as a replacement or as a substitute for custody or a parent's periods of parenting time with the child.

(e) The amount of time Electronic Communication is used shall not be a factor in the calculation of Child Support.

SECTION 6. ORS 109.332 is amended to read:

109.332 Grandparent visitation in stepparent adoption.

(1) When a petition has been filed under ORS 109.309 concerning the adoption by a stepparent of a child, a

grandparent served with a copy of the petition under ORS 109.309 (7) may file a motion with the court asking the court to award a grandparent the right to regular visitation and any electronic communication with the child after the adoption. A motion under this subsection must be filed no later than 30 days after service of the petition.

SECTION 7. ORS 109.704 is added to read:
109.704 Definitions for ORS 109.701 to 109.834. As used in ORS 109.701 to 109.834:

(18) "Parenting Time", means in-person time spent between a child and their parent including any form of visitation and any Electronic Communication;

(19) "Electronic communication" means time during which a parent and his or her child communicate by using communication tools such as the telephone, electronic mail, instant messaging, video conferencing or other wired or wireless technologies via the Internet, or another medium of communication.

SECTION 8. ORS 109.784 is amended to read:
109.784 Temporary order for parenting time or visitation.

(1) A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A parenting time, ~~or~~ visitation and any electronic communication schedule made by a court of another state; or

(b) The visitation or parenting time provisions of a child custody determination of another state that permit visitation or parenting time but do not provide for a specific visitation or parenting time schedule.

***Note:** Electronic Communication is already supported in Oregon under "109.734 Taking testimony in another state" and so this Bill just adds that the same communication may occur between children and their parents.

References:

- www.InternetVisitation.org

Existing Laws:

- Utah Bill: HB 0082s01
- Wisconsin Bill - SB 244

Existing Bills:

- Missouri - Bill submitted by Rep Michael Brown
- Ohio - SB 341 submitted by Senator Marc Dunn
- South Carolina - Bill created SB1344 by Senator Mescher
- Illinois - Bill submitted HB5379 by Representative Ruth Munson
- Virginia - Bill submitted SB123 by Senator Jay O'Brien
- Michigan - Bill submitted HB6452 by Rep Tom Pearce