

Enrolled House Bill 2306

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Oregon Collectors Association)

CHAPTER

AN ACT

Relating to liability of parents for expenses of child; creating new provisions; and amending ORS 108.040.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 109.

SECTION 2. (1)(a) The expenses of a minor child and the education of the minor child are chargeable upon the property of either or both parents who have not married each other. The parents may be sued jointly or separately for the expenses and education of the minor child.

(b) This subsection applies to a man who is asserted to be a parent of the minor child only when:

(A) A voluntary acknowledgment of paternity form has been filed in this or another state and the period for rescinding or challenging the voluntary acknowledgement on grounds other than fraud, duress or material mistake of fact has expired; or

(B) Paternity has been established pursuant to an order or judgment entered under ORS 109.124 to 109.230 or 416.430.

(c) As used in this subsection, "expenses of a minor child" includes only expenses incurred for the benefit of a minor child.

(2) Notwithstanding subsection (1) of this section, a parent is not responsible for debts contracted by the other parent after the separation of one parent from the other parent, except for debts incurred for maintenance, support and education of the minor child of the parents.

(3) For the purposes of subsection (2) of this section, parents are considered separated if they are living in separate residences without intention of reconciliation at the time the debt is incurred. The court may consider the following factors in determining whether the parents are separated, in addition to other relevant factors:

- (a) Whether the parents subsequently reconciled.
- (b) The number of separations and reconciliations of the parents.
- (c) The length of time the parents lived apart.
- (d) Whether the parents intend to reconcile.

(4) An action under this section must be commenced within the period otherwise provided by law.

SECTION 3. ORS 108.040 is amended to read:

108.040. (1)(a) The expenses of the family and the education of the **minor** children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

(b) As used in this subsection:

(A) "Expenses of the family" includes only expenses incurred for the benefit of a member of the family.

(B) "Family" means the husband, wife and minor children of the husband and wife.

(2) Notwithstanding subsection (1) of this section, after the separation of one spouse from the other spouse, a spouse is not responsible for debts contracted by the other spouse after the separation except for debts incurred for maintenance, support and education of the minor children of the spouses.

(3) For the purposes of subsection (2) of this section, spouses shall be considered separated if they are living in separate residences without intention of reconciliation at the time the debt is incurred. The court may consider the following factors in determining whether the spouses are separated in addition to such other factors as may be relevant:

- (a) Whether the [parties] **spouses** subsequently reconciled.
- (b) The number of separations and reconciliations of the [parties] **spouses**.
- (c) The length of time the [parties] **spouses** lived apart.
- (d) Whether the [parties] **spouses** intend to reconcile.
- (e) Whether the [parties] **spouses** have filed a petition for separation or dissolution.

(4) An action under this section shall be commenced within the period otherwise provided by law.

Passed by House May 5, 2005

Received by Governor:

Repassed by House July 26, 2005

.....M.,....., 2005

Approved:

.....
Chief Clerk of House

.....M.,....., 2005

.....
Speaker of House

.....
Governor

Passed by Senate June 27, 2005

Filed in Office of Secretary of State:

Repassed by Senate July 27, 2005

.....M.,....., 2005

.....
President of Senate

.....
Secretary of State