

# Senate Bill 1050

Sponsored by COMMITTEE ON RULES

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies requirements for eligibility of child 18 years of age or older and under 21 years of age to receive child support while attending school. Modifies circumstances under which support is terminated and reinstated. Requires that support continue during regularly scheduled breaks in school.

## A BILL FOR AN ACT

1  
2 Relating to child support for child attending school; amending ORS 107.108.

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

4 **SECTION 1.** ORS 107.108 is amended to read:

5 107.108. (1) **As used in this section:**

6 (a) **“Child attending school” means a child of the parties who is unmarried, is 18 years**  
7 **of age or older and under 21 years of age and is a student regularly attending school. “Child**  
8 **attending school” does not include a child whose course load is less than one-half that de-**  
9 **termined by the school to constitute full-time enrollment.**

10 (b) **“Regularly attending” means the child is making satisfactory academic progress as**  
11 **defined by the school.**

12 (c) **“Regularly scheduled break” means:**

13 (A) **A summer semester or term;**

14 (B) **A period of time not exceeding four months between graduation from or completion**  
15 **of school and the beginning of the next regularly scheduled term, semester or course of**  
16 **study at school;**

17 (C) **A period of time between the end and beginning of regularly scheduled consecutive**  
18 **school semesters, terms or courses of study; or**

19 (D) **Any other scheduled break between courses of study that is defined by the school as**  
20 **a regularly scheduled break.**

21 (d) **“School” means:**

22 (A) **An educational facility such as a high school, community college, four-year college**  
23 **or university;**

24 (B) **A course of professional, vocational or technical training, including the Job Corps,**  
25 **designed to fit the child for gainful employment; or**

26 (C) **A high school equivalency course, including but not limited to a General Educational**  
27 **Development (GED) program, an educational program for grade 12 or below and home**  
28 **schooling.**

29 [(1)] (2) *[In addition to any other authority of the court, the court may enter an order against] A*  
30 **support order entered or modified under this chapter or under ORS chapter 25, 108, 109, 110,**  
31 **125, 416, 419B or 419C may require** either parent, or both of them, to provide for the support or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 maintenance of a child attending school[:].

2 [(a) After the commencement of a suit for annulment or dissolution of a marriage or for separation  
3 from bed and board and before the judgment therein;]

4 [(b) In a judgment of annulment or dissolution of a marriage or of separation from bed and board;  
5 and]

6 [(c) During the pendency of an appeal taken from all or part of a judgment rendered in pursuance  
7 of ORS 107.005 to 107.086, 107.093 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540, 107.610 or  
8 this section.]

9 [(2) An order providing for temporary support under subsection (1)(c) of this section may be mod-  
10 ified at any time by the court making the judgment appealed from, shall provide that the support money  
11 be paid in monthly installments, and shall further provide that it is to be in effect only during the  
12 pendency of the appeal. No appeal lies from any such temporary order.]

13 (3) If [the court] **a support order** provides for the support [and] **or** maintenance of a child at-  
14 tending school [under this section], the child is a party for purposes of [matters related to that pro-  
15 vision.]:

16 (a) **Applying for services under ORS 25.080;**

17 (b) **Requesting a judicial or administrative modification of the child support amount or**  
18 **receiving notice of and participating in any modification proceeding; and**

19 (c) **Agreeing, in the same manner as an obligee under ORS 25.020 (12), that payments not**  
20 **made to the Department of Justice should be credited for amounts that would have been paid**  
21 **to the child attending school if the payments had been made to the department.**

22 (4)(a) [When the court orders support under this section or the administrator or an administrative  
23 law judge orders support for a child attending school under ORS 416.400 to 416.470, the court, ad-  
24 ministrator or administrative law judge shall order that the support be distributed to the child] **If a**  
25 **support order provides for the support or maintenance of a child attending school and the**  
26 **child qualifies as a child attending school**, unless good cause is found for the distribution of the  
27 payment to be made in some other manner, **support shall be distributed to the child if services**  
28 **are being provided under ORS 25.080 or shall be paid directly to the child if those services**  
29 **are not being provided.**

30 (b) **Unless otherwise ordered by the court, administrator or administrative law judge,**  
31 when there are multiple children for whom support is ordered, the amount paid directly to a child  
32 **attending school** [under this subsection] is a prorated share based on the number of children for  
33 whom support is ordered [unless otherwise ordered by the court, administrator or administrative law  
34 judge]. **However, if, due to a parenting time or shared custody arrangement, support is not**  
35 **paid to the parent having primary physical custody of the child before the child turns 18**  
36 **years of age, the support amount paid directly to the child is not a prorated share.**

37 (c) The Department of Justice shall adopt rules to define good cause and circumstances under  
38 which the administrator or administrative law judge may allocate support by other than a prorated  
39 share and to determine how support is to be allocated in those circumstances.

40 [(5) A child for whom support has been ordered under this section:]

41 [(a) Must maintain the equivalent of a C average or better.]

42 [(b) Shall notify a parent paying support when the child ceases to be a child attending school.]

43 [(c) Shall submit to the department and the parent paying support, on a form developed by the  
44 department, all information necessary to establish eligibility to receive support under this section, in-  
45 cluding grades earned and the courses in which the child is enrolled. The child shall submit the in-

1 *formation required by this paragraph within the first month of each term or semester.]*

2 *[(6) If the child fails to comply with any of the requirements imposed on the child by this section*  
3 *and upon written notice from the obligor, the distribution of the support directly to the child ceases and*  
4 *may not be reinstated unless the parent paying support elects to continue to pay the support, in spite*  
5 *of the child's failure to comply with the requirements of this section, and notifies the department of the*  
6 *election in writing. If the underlying support order is for the support of more than one child, the*  
7 *parent shall pay the amount previously paid directly to the child to the recipient of the rest of the*  
8 *support until such time as the support order is modified. A child's failure to comply with the require-*  
9 *ments imposed by this section is a substantial change of circumstances for purposes of modification of*  
10 *a support order.]*

11 *[(7) Orders entered into prior to October 4, 1997, may be modified to include the provisions of*  
12 *subsections (4) to (6) of this section. However, the fact that an order entered, or agreement entered into,*  
13 *prior to October 4, 1997, does not contain any of the provisions of subsections (4) to (6) of this section*  
14 *does not constitute a substantial change of circumstances for purposes of modifying a child support*  
15 *order.]*

16 *[(8) As used in this section, "child attending school" means a child of the parties who is unmarried,*  
17 *is 18 years of age or older and under 21 years of age and is a student regularly attending school,*  
18 *community college, college or university, or regularly attending a course of professional or technical*  
19 *training designed to fit the child for gainful employment. A child enrolled in an educational course load*  
20 *of less than one-half that determined by the educational facility to constitute "full-time" enrollment is*  
21 *not a "child attending school."]*

22 **(5) For support payments to continue to be distributed or paid directly to the child at-**  
23 **tending school, the child shall provide to each parent ordered to pay support and, if services**  
24 **are being provided under ORS 25.080, to the department:**

25 **(a) Written notice of the child's intent to attend or continue to attend school. The child**  
26 **shall provide the notice before reaching 18 years of age. The notice must include the name**  
27 **of the school and the expected graduation date or date when the child will stop attending**  
28 **classes. If the child changes schools, the child shall provide the information required by this**  
29 **subsection concerning the subsequent school before the expected graduation date or date**  
30 **when the child will stop attending classes at the previous school.**

31 **(b) Written authorization giving each parent ordered to pay support permission to obtain**  
32 **from the school confirmation of the child's enrollment, confirmation of satisfactory academic**  
33 **progress, a list of courses in which the child is enrolled and the child's grades. The child shall**  
34 **provide the authorization to each parent ordered to pay support within 30 days after the**  
35 **beginning of the first term or semester after the child reaches 18 years of age and at any**  
36 **time thereafter as requested by a parent ordered to pay support. If an order of nondisclosure**  
37 **of information has been entered concerning the child under ORS 25.020, the child may pro-**  
38 **vide the information described in this paragraph in the manner established by the depart-**  
39 **ment by rule.**

40 **(6) Each parent ordered to pay support shall continue to make support payments, to be**  
41 **distributed or paid directly, to the child during regularly scheduled breaks as long as the**  
42 **child intends to continue attending school the next scheduled term or semester.**

43 **(7) A parent's obligation to pay support to a child attending school terminates when:**

44 **(a) The child has reached 18 years of age and has not provided written notice of the**  
45 **child's intent to attend or continue to attend school, or the child has graduated or reached**

1 the date to stop attending classes, as provided under subsection (5)(a) of this section;

2 (b)(A) Services are not being provided under ORS 25.080;

3 (B) The parent has provided the child with a written notice of the parent's intent to stop  
 4 paying support directly to the child because the child is no longer a child attending school  
 5 or the child has not provided the written authorization required by subsection (5)(b) of this  
 6 section; and

7 (C) Thirty days have passed since the parent provided the notice to the child and the  
 8 parent has not received:

9 (i) Written confirmation from the school that the child is enrolled in the school and is a  
 10 child attending school; or

11 (ii) The written authorization from the child required by subsection (5)(b) of this section;  
 12 or

13 (c)(A) Services are being provided under ORS 25.080;

14 (B) A parent ordered to pay support has provided the department with written notice  
 15 that the child is no longer a child attending school or that the child has not provided the  
 16 written authorization required by subsection (5)(b) of this section;

17 (C) The department has provided written notice to the child requiring:

18 (i) Written confirmation, on a form developed by the department, from the school that  
 19 the child is enrolled in the school and is a child attending school; or

20 (ii) The written authorization from the child required by subsection (5)(b) of this section;  
 21 and

22 (D) Thirty days have passed since the department provided the notice to the child and  
 23 the department has not received:

24 (i) Written confirmation from the school that the child is enrolled in the school and is a  
 25 child attending school; or

26 (ii) The written authorization from the child required by subsection (5)(b) of this section.

27 (8) When a parent's support obligation has terminated under subsection (7) of this sec-  
 28 tion, the obligation is reinstated:

29 (a) If services are not being provided under ORS 25.080, when the parent receives written  
 30 confirmation from the school that the child is enrolled in the school and is a child attending  
 31 school or receives the written authorization from the child required by subsection (5)(b) of  
 32 this section; or

33 (b) If services are being provided under ORS 25.080, when the department receives writ-  
 34 ten confirmation from the school that the child is enrolled in the school and is a child at-  
 35 tending school or receives the written authorization from the child required by subsection  
 36 (5)(b) of this section.

37 (9) If a parent ordered to pay support is paying a prorated share under subsection (4) of  
 38 this section and that obligation is terminated under subsection (7) of this section, the parent  
 39 shall pay to the obligee the amount previously paid to the child attending school until such  
 40 time as the support order is modified. The termination of a parent's obligation to pay sup-  
 41 port to a child attending school is a substantial change of economic circumstances for pur-  
 42 poses of modification of a support order. In a proceeding to modify a support order, the  
 43 court, administrator or administrative law judge may order an alternate support amount to  
 44 be paid in the event that a support obligation is reinstated under subsection (8) of this sec-  
 45 tion.

1       **(10) A support order that provides for the support or maintenance of a child attending**  
2 **school is subject to this section regardless of when the support order was entered.**

3       **(11) A support order that provides for the support or maintenance of a child attending**  
4 **school is intended to recognize the importance of continuing education for children over 18**  
5 **years of age. While support may serve to supplement the resources available to the child**  
6 **attending school, it is not intended to replace other resources or meet all of the financial**  
7 **needs of a child attending school.**

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