

OREGON BEST INTEREST FACTORS, ORS § 107.137

FACTOR	WHAT DO WE KNOW?	HOW DOES DV SHAPE THAT?
Emotional ties between child and other family members	What are the child's relationships to each parent?	Interfering with parent's authority? Undermining parent's relationship? Traumatic bonding or alignment with "dominant" parent?
Interest of parties in and attitude toward the child	What is each parent's interest in the child? What is each parent's attitude toward the child?	Put child's interest first? Child used as tool of abuse? Interference with child's activities? Threats to child's basic needs?
Desirability of continuing existing relationship	Is a continuing relationship desirable for the child?	Is safety a factor? Isolation of child? Fears, concerns, anxieties of child?
Abuse of one parent by the other	Is there a history of abuse? What is the nature and context? What parenting implications?	Effects of exposure on child? Effects of trauma on child? Will unsupervised contact endanger child? Will exchanges be safe?
Preference for child's primary caregiver	Who has historically been primary caregiver?	Interference with other parent's relationship? Injuries or untreated medical conditions/effects of trauma?
Willingness and ability to facilitate relationship with other parent, absent history of abuse and danger to health or safety of parent or child	What is the level of conflict? Can the parents cooperate to meet the child's needs? Is either parent reluctant to allow association with other?	Is co-parenting safe for parent and child? Is reluctance to facilitate relationship due to protectiveness or fear?

This project was supported by Grant No. 2015-TA-AX-K045 and 2014-FJ-AX-K002 awarded by the Office on Violence Against Women, US Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Message from Judge McKnight and additional Oregon custody statutes:

Judge McKnight wants to remind everyone that in addition to the best interest factors in ORS 107.137, summarized in the chart on the other side, Oregon has clearly established safety as a high priority in custody matters, including safety of the parties. These provisions have particular application in cases with intimate partner violence. Pertinent portions of the relevant statutes are set forth below:

ORS 107.101 sets forth the state's policy on child custody, including to "[a]ssure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interests of the child" and to "[c]onsider the best interests of the child and the safety of the parties in developing a parenting plan." ORS 107.101(1) and (5).

This policy is reiterated in ORS 107.102(4)(b), which states, "In developing a parenting plan..., the court may consider only the best interests of the child and the safety of the parties."

Also, ORS 107.105(1)(b) states, "If the parents have been unable to develop a parenting plan or if either of the parents requests the court to develop a detailed parenting plan, the court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial parent sufficient access to the child to provide for appropriate quality parenting time and ensuring the safety of the parties, if implicated... If the court awards parenting time to a noncustodial parent who has committed abuse, other than being convicted for rape as described in this paragraph, the court shall make adequate provision for the safety of the child and the other parent."

(Under ORS 109.103(1), the same policies apply and the same provisions govern custody matters between unmarried parents.)