

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended, Be Printed Engrossed, and Be Placed on the Consent Calendar
Vote:	7 - 0 - 2
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Read, Whisnant
Nays:	0
Exc.:	Krieger, Macpherson
Prepared By:	Miranda Plummer, Counsel
Meeting Dates:	4/3

WHAT THE MEASURE DOES: Extends the time period from 15 days to 20 days that a sheriff has to sell property pursuant to garnishment. Authorizes a sheriff to serve a facsimile copy of an eviction summons and complaint. Authorizes a sheriff to use reasonable force to remove individuals subject to the judgment when enforcing a judgment of restitution. Authorizes law enforcement agencies to forcibly enter specified premises to enforce an order of assistance pertaining to custody, or to enforce a Family Abuse Prevention Act (FAPA) custody provision. Authorizes a sheriff to serve and enter into the Law Enforcement Data System a facsimile copy of a FAPA restraining order, an Elderly Persons and Persons with Disabilities Prevention Act restraining order, or a child abuse restraining order. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:

- Authenticity verification of facsimile copies

EFFECT OF COMMITTEE AMENDMENT: Deletes the phrase “summons and complaint” and replaces it with “restraining order” in three places. Deletes the establishment that a court modification to a restraining order that lessens restrictions upon a respondent does not need to be served on the respondent.

BACKGROUND: Presently, sheriffs must serve court-certified true copies of eviction summons and complaints, and any type of restraining order. In some circumstances, the trial court administrator is quite far from the sheriff’s office. In eviction summons and complaints, the sheriff has only until the end of the next business day to serve. It is difficult for sheriffs to meet this timeline when they are required to either drive to the court administrator or rely on the U.S. Postal Service to receive the summons and complaints. This bill would offer the sheriff more time to serve. Since restraining orders are personal safety matters, the sheriffs would like to be able to serve more quickly after they are entered by the trial court. Using a facsimile copy would again eliminate the drive to the court or the wait for the mail.

At this time, sheriffs are authorized to use “reasonable force” to enforce custody orders. HB 2869 further clarifies with the language “forcible entry” and “specified premises” to further clarify sheriff duties. The “specified premises” language is to avoid running afoul of any Fourth Amendment search and seizure issues. In order to conform to the Fourth Amendment, search warrants are required to be specific regarding the premises to be searched. HB 2869 creates a similar standard for enforcement of custody orders.

Where HB 2869 authorizes use of reasonable force to remove persons from property subject to a restitution judgment, it deletes older language. The previous provision references a four-day waiting period for the defendant to move out. This waiting period still exists in ORS 405.151; it has merely been removed from the model form that is in the bill. Including information about the four-day waiting period has been confusing for some defendants, who think that they still have four days from the time the sheriff arrives, when the four day period has already elapsed.

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This summary has not been adopted or officially endorsed by action of the committee.