

(To Resolve Conflicts)

B-Engrossed Senate Bill 271

Ordered by the House May 17
Including Senate Amendments dated February 27 and House Amendments
dated May 17 to resolve conflicts

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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.

Revises laws governing waiver and deferral of fees and court costs.

Provides that judge may delegate authority to waive or defer fees and costs to court administrator.

Provides that if person prevails in action for which fees and costs were waived, court may include in judgment of money award, payable by any party liable to person receiving waiver, amount equal to waived fees and costs. Requires judgment debtor to pay money award amount to court administrator.

Allows court to enter limited or supplemental judgment against person for deferred fees and costs or to include money award for deferred fees and costs in general judgment. Allows motion for relief from judgment based on showing that obligor's financial circumstances have changed since entry of judgment.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; amending ORS 18.718, 21.607, 21.615, 30.643, 30.645,
3 30.647, 105.130, 107.434, 107.500 and 108.130; and repealing ORS 21.605.

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

5 **SECTION 1. Definitions. As used in sections 1 to 7 of this 2007 Act:**

6 (1) "Applicant" means a person who applies for waiver or deferral of fees or court costs
7 under sections 1 to 7 of this 2007 Act.

8 (2) "Court administrator" means:

9 (a) The State Court Administrator for the Supreme Court, the Court of Appeals and the
10 Oregon Tax Court;

11 (b) A trial court administrator in a circuit court that has a trial court administrator; and

12 (c) The clerk of the court in all other courts.

13 (3) "Judge" means the Chief Justice of the Supreme Court, the Chief Judge of the Court
14 of Appeals, a judge of a circuit or county court, the judge of the Oregon Tax Court, a tax
15 court magistrate or a justice of the peace.

16 (4) "Obligor" means a person who has had payment of all or part of fees or court costs
17 deferred under sections 1 to 7 of this 2007 Act.

18 **SECTION 2. Authority to waive or defer fees and court costs; delegation. (1) A judge may**
19 **waive or defer all or part of the fees and court costs payable to the court by a party in a civil**
20 **action or proceeding if the judge finds that the party is unable to pay all or any part of the**

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 fees and costs. Waiver or deferral under this section of the fees or court costs of an inmate,
2 as defined in ORS 30.642, is subject to ORS 30.642 to 30.650.

3 (2) A presiding judge may delegate authority to waive or defer fees and court costs under
4 this section to the court administrator for the court in which the judge serves. A delegation
5 of authority under this subsection must be in writing and must be subject to clear standards.
6 If a delegation is made under this subsection, an applicant may seek review of the court
7 administrator's decision by a judge. If an applicant requests review of a court administra-
8 tor's decision, the court administrator shall forward the application for waiver or deferral
9 of the fees or court costs to the appropriate judge.

10 (3) A court may not delay or refuse to enter an order or judgment in an action or pro-
11 ceeding because deferred fees and court costs have not been paid.

12 (4) The Chief Justice of the Supreme Court by order may provide standards and practices
13 for waiver or deferral of fees or court costs under sections 1 to 7 of this 2007 Act.

14 **SECTION 3. Application for waiver or deferral of fees or court costs.** Upon request of a
15 party, a court administrator shall provide a party with an application for waiver or deferral
16 of fees or court costs. The form of the application must be consistent with the standards
17 prescribed by the Chief Justice of the Supreme Court under section 2 (4) of this 2007 Act.
18 The application must contain a notice that the court may enter judgment against the appli-
19 cant for any deferred fees or court costs. A fee may not be charged for providing the appli-
20 cation or for the filing of an application.

21 **SECTION 4. Waived fees; recovery.** (1) If the fees and court costs of a person have been
22 waived under sections 1 to 7 of this 2007 Act and the person prevails in the action or pro-
23 ceeding for which fees and court costs were waived, the court may include in the judgment
24 a money award, payable by any party who is liable to the person receiving the waiver for
25 costs and disbursements in the action or proceeding, in an amount equal to the waived fees
26 and court costs. The money award shall be in favor of the state in courts other than justice
27 courts and county courts. In justice courts and county courts, the money award shall be in
28 favor of the county in which the justice court or county court is located. The judgment
29 debtor must pay the money award amount to the court administrator.

30 (2) The state is liable for the payment of fees and court costs waived by a court only if
31 a money award as described in subsection (1) of this section is entered against the state.

32 **SECTION 5. Judgment for deferred fees and court costs.** (1) In courts other than justice
33 courts and county courts, fees and court costs deferred under sections 1 to 7 of this 2007
34 Act constitute a monetary obligation of the obligor that is payable to the state. In justice
35 courts and county courts, fees and court costs deferred under sections 1 to 7 of this 2007
36 Act constitute a monetary obligation of the obligor that is payable to the county in which
37 the justice court or county court is located. The court may render a judgment in favor of
38 the state or county for any unpaid part of the obligation. A limited or supplemental judgment
39 may be rendered for the obligation, or the obligation may be included in the general judgment
40 in an action or proceeding. If the court renders a limited judgment for the obligation, the
41 money award may be only for unpaid fees and court costs and may not include any other
42 financial obligation. A court administrator may sign a judgment for deferred fees and costs
43 on behalf of the court.

44 (2) A court may render a limited or supplemental judgment for unpaid deferred fees or
45 costs, or include a money award for the obligation in a general judgment, without further

1 notice to the obligor or further order of the court.

2 (3) An obligor subject to a judgment for unpaid fees and court costs may move for relief
3 from the judgment based on a showing that the obligor's financial circumstances have
4 changed since the time of the entry of the judgment such that the obligor is no longer able
5 to pay the judgment amount. A motion for relief under this subsection must be made in the
6 manner provided by ORCP 71 and must be made within one year after the judgment con-
7 taining the money award is entered.

8 **SECTION 6. Waiver or deferral of costs of transcript on appeal.** (1) In a civil action or
9 proceeding, the Supreme Court or the Court of Appeals may waive in whole or in part, defer
10 in whole or in part, or partially waive and partially defer, the expense of preparing a tran-
11 script on appeal if:

12 (a) The party requesting the transcript is unable to pay the expense of preparing the
13 transcript; and

14 (b) The party requesting the transcript makes a prima facie showing that the transcript
15 is necessary to prosecute the appeal and would reveal reversible error in the action or pro-
16 ceeding.

17 (2) If the Supreme Court or the Court of Appeals waives or defers any part of the expense
18 of preparing a transcript on appeal, the court shall authorize preparation of only as much
19 of the transcript as is necessary to prosecute the appeal. The State Court Administrator
20 shall pay the unpaid costs of preparing the transcript out of funds appropriated for that
21 purpose.

22 (3) If the Supreme Court or the Court of Appeals defers payment of any part of the ex-
23 pense of preparing a transcript on appeal and any part of the deferred expense remains un-
24 paid at the conclusion of the appeal, a judgment may be entered for the unpaid amount in
25 the manner provided by section 5 of this 2007 Act.

26 (4) If the State Court Administrator pays any costs of preparing a transcript on appeal
27 under subsection (2) of this section and costs on appeal are awarded to the obligor, a money
28 award to the State Court Administrator shall be included in the judgment for all waived or
29 deferred transcript costs paid by the State Court Administrator.

30 (5) Waiver or deferral under this section of the transcript costs of an inmate, as defined
31 in ORS 30.642, is subject to ORS 30.642 to 30.650.

32 **SECTION 7.** (1) Except as provided in subsection (2) of this section, information supplied
33 by a person filing an application for waiver or deferral of fees or court costs, and information
34 collected by the courts for purposes of determining eligibility for waiver or deferral of fees
35 or costs, is confidential and may not be used for any purpose other than determining eligi-
36 bility for waiver or deferral.

37 (2) Information described in subsection (1) of this section may be:

38 (a) Introduced in an action or proceeding arising out of a determination that a person is
39 not eligible for waiver or deferral of fees or court costs;

40 (b) Introduced in a proceeding arising as a result of an allegation that a person has
41 supplied false information in seeking waiver or deferral of fees or court costs;

42 (c) Used by a court, the Department of Revenue and the assignees of a court or the De-
43 partment of Revenue for the purpose of collecting delinquent amounts owed to this state by
44 the person providing the information; and

45 (d) Released pursuant to a subpoena issued as a result of an allegation that a person has

1 **supplied false information in seeking waiver or deferral of fees or court costs.**

2 **SECTION 8.** ORS 105.130, as amended by section 55, chapter 702, Oregon Laws 2005, is
3 amended to read:

4 105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,
5 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of
6 this state.

7 (2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the
8 clerk shall:

9 (a) Collect a filing fee of \$13;

10 (b) Collect any other fee authorized by law or ordinance; and

11 (c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable
12 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons
13 and complaint for service.

14 (3) After a complaint is filed under subsection (2) of this section, if the defendant demands a
15 trial, the plaintiff shall pay an additional filing fee of \$29 and the defendant shall pay a filing fee
16 of \$33.

17 (4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to
18 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to
19 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent
20 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

21 (5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an
22 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

23 (a) The Attorney General consents to the representation of the agency by an officer or employee
24 in the particular action or in the class of actions that includes the particular action; and

25 (b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the partic-
26 ular type of action being conducted.

27 (6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect a
28 surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees estab-
29 lished by subsection (2) of this section and from a defendant at the time a defendant demands a trial
30 in the action. The surcharge shall be deposited by the State Court Administrator into the State
31 Treasury to the credit of the Housing and Community Services Department Low Income Rental
32 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

33 *[(7) Fees and surcharges provided for in this section may not be refunded.]*

34 **(7) A paper or pleading shall be filed by the clerk only if the fees and surcharges required**
35 **under this section are paid by the person filing the paper or pleading or if an application for**
36 **a waiver or deferral of fees and court costs is granted by the court under sections 1 to 7 of**
37 **this 2007 Act. Fees and surcharges provided for in this section may not be refunded.**

38 **SECTION 9.** ORS 21.607 is amended to read:

39 21.607. (1) Notwithstanding ORS 82.010, judgments resulting from the deferral of fees and court
40 costs under the provisions of [*ORS 21.605*] **sections 1 to 7 of this 2007 Act** bear no interest.

41 (2) If a judge of a circuit or county court defers payment of any fees or court costs under the
42 provisions of [*ORS 21.605*] **sections 1 to 7 of this 2007 Act**, and the amount of those deferred fees
43 or court costs is subsequently paid in full, the trial court administrator for the court shall note in
44 the register or docket that the deferred fees and costs have been paid in full. Notation in the reg-
45 ister or docket that deferred fees and costs have been paid in full constitutes a satisfaction of the

1 judgment for those fees and costs.

2 (3) If the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or the
3 judge of the Oregon Tax Court defers payment of any fees or court costs under the provisions of
4 [ORS 21.605] **sections 1 to 7 of this 2007 Act**, including deferral of the cost of preparing the
5 transcript on appeal, and the amount of those deferred fees or court costs is subsequently paid in
6 full, the State Court Administrator shall note upon the register of the court that the deferred fees
7 and costs have been paid in full. Notation in the register that deferred fees and costs have been paid
8 in full constitutes a satisfaction of the judgment for those fees and costs.

9 (4) Upon notation in the register or docket that deferred fees and costs have been paid in full,
10 a certified copy of the notation may be filed with any circuit court or County Clerk Lien Record in
11 which the judgment was filed under the provisions of [ORS 21.605] **sections 1 to 7 of this 2007**
12 **Act**. Upon filing of the certified copy, the trial court administrator for the court, or the county clerk
13 if the judgment was filed in the County Clerk Lien Record, shall cause the certified copy to be en-
14 tered in the register or docket of the court or recorded in the County Clerk Lien Record.

15 (5) Judgments resulting from the deferral of fees and court costs under the provisions of [ORS
16 21.605] **sections 1 to 7 of this 2007 Act** may not be compromised, settled or adjusted by a trial
17 court administrator or the State Court Administrator.

18 **SECTION 10.** ORS 21.615 is amended to read:

19 21.615. (1) In an appeal to a circuit court from a justice court or municipal court in an action
20 for commission of a state violation or an action for violation of a city charter or ordinance, but not
21 in an action for commission of a state crime:

22 (a) The filing, trial and law library fees required by ORS 21.110, 21.270 and 21.350 are required
23 of the appellant and respondent.

24 (b) The legal aid fee required by ORS 21.480 is required of the appellant.

25 (2) Payment of fees required by subsection (1) of this section is subject to ORS 20.140.

26 (3) Fees required by subsection (1) of this section may be waived or deferred by a judge of the
27 circuit court for the reason and in the manner provided in [ORS 21.605] **sections 1 to 7 of this 2007**
28 **Act**.

29 **SECTION 11.** ORS 30.643 is amended to read:

30 30.643. (1) If an inmate seeks to file an action against a public body, the fees and court costs
31 of the inmate may be waived or deferred only in the manner provided by this section.

32 (2) Any inmate seeking waiver or deferral of fees or court costs must submit with the applica-
33 tion [required by ORS 21.605] **for waiver or deferral** a certified copy of the inmate's trust account
34 statement for the six-month period immediately preceding the filing of the complaint, petition, notice
35 of appeal or petition for review. The statement must be certified as correct by an official of each
36 correctional facility in which the inmate was confined within the six-month period or by an em-
37 ployee of the Department of Corrections charged with the responsibility of overseeing inmate trust
38 accounts.

39 (3) Upon the filing of a statement under subsection (2) of this section, the court shall review the
40 information in the statement relating to deposits in the inmate's trust account and any other re-
41 sources available to the inmate. The court may only waive the inmate's fees and court costs if the
42 court determines that the inmate has no funds and will not have funds.

43 (4) If the court makes a determination that an inmate has or will have funds to pay fees and
44 court costs, the court shall require full payment of the filing fees and court costs, or, if funds are
45 not immediately available in the inmate's trust account, shall assess and collect filing fees and court

1 costs as funds become available in the inmate's trust account.

2 (5) On its own motion or on the motion of the public body, the court may review the pleadings
3 of the inmate in an action against a public body at the time a request for waiver or deferral of filing
4 fees or court costs is made. If the court finds that the pleadings fail to state a claim for which relief
5 may be granted, the court may decline to waive or defer filing fees or court costs. The court shall
6 enter a denial of waiver or deferral of fees and costs under this subsection as a limited judgment.
7 Notwithstanding the time established by statute for the commencement of an action, if a limited
8 judgment is entered under this subsection within 30 days of the expiration of the time allowed for
9 commencing the action, the inmate may commence the action not later than 45 days after the
10 judgment is entered. Only one extension of the time allowed for commencing an action may be
11 granted by the court under this section.

12 (6) Nothing in this section shall be construed as preventing an inmate from bringing an action
13 against a public body because the inmate has no assets or means by which to pay the initial partial
14 filing fee as provided under this section.

15 **SECTION 12.** ORS 30.645 is amended to read:

16 30.645. (1) Except as provided in subsection (2) of this section, the court may not waive or defer
17 an inmate's fees or court costs under ORS 30.643 if the inmate has, on three or more prior occasions
18 while incarcerated or detained in any correctional facility, filed an action against a public body in
19 a court of this state that was dismissed on the grounds that the action:

- 20 (a) Was frivolous or malicious;
- 21 (b) Failed to state a claim upon which relief could be granted; or
- 22 (c) Sought monetary relief from a defendant who is immune from a claim for monetary relief.

23 (2) The court may waive or defer fees or court costs of an inmate who would not otherwise be
24 eligible for waiver or deferral under subsection (1) of this section if the inmate establishes in the
25 application [*required by ORS 21.605*] **for waiver or deferral** that the inmate is in imminent danger
26 of serious physical injury and the action against a public body is needed to seek relief from that
27 danger.

28 **SECTION 13.** ORS 30.647 is amended to read:

29 30.647. (1) If fees or court costs of an inmate have been waived or deferred under ORS 30.643,
30 a court shall dismiss the case if at any time the court determines that the inmate was in fact able
31 to pay fees and court costs at the time the application for waiver or deferral was made under [*ORS*
32 *21.605*] **sections 1 to 7 of this 2007 Act.**

33 (2) If an inmate's fees or court costs have been waived or deferred under ORS 30.643, a court
34 shall dismiss the case if at any time the court determines that each claim in the action, petition or
35 appeal:

- 36 (a) Is frivolous or malicious;
- 37 (b) Fails to state a claim upon which relief may be granted, and the court denies leave to amend;
- 38 or
- 39 (c) Seeks monetary relief against a defendant who is immune from a claim for monetary relief.

40 (3) Upon appeal of any dismissal under this section, the Court of Appeals on its own motion, or
41 on the motion of the respondent, may summarily affirm the judgment of the trial court, with or
42 without submission of briefs and without oral argument, if the Court of Appeals determines that the
43 appeal does not present a substantial question of law. Notwithstanding ORS 2.570, the Chief Judge
44 of the Court of Appeals may deny a respondent's motion for summary affirmance under this sub-
45 section or may grant the motion if the petitioner does not oppose the motion. A dismissal of an ap-

1 peal under this subsection constitutes a decision on the merits of the case.

2 **SECTION 14.** ORS 107.434, as amended by section 59, chapter 702, Oregon Laws 2005, is
3 amended to read:

4 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
5 time enforcement procedure that may or may not include a requirement for mediation. The proce-
6 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall
7 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-
8 enting time order. The court shall charge a filing fee of \$50, subject to [ORS 21.605] **waiver or**
9 **deferral of the fee under sections 1 to 7 of this 2007 Act.** The court shall provide forms for:

10 (a) A motion filed by either party alleging a violation of parenting time or substantial violations
11 of the parenting plan. When a person files this form, the person must include a copy of the order
12 establishing the parenting time.

13 (b) An order requiring the parties to appear and show cause why parenting time should not be
14 enforced in a specified manner. The party filing the motion shall serve a copy of the motion and
15 the order on the other party. The order must include:

16 (A) A notice of the remedies imposable under subsection (2) of this section and the availability
17 of a waiver of any mediation requirement; and

18 (B) A notice in substantially the following form:

19 _____
20
21 When pleaded and shown in a separate legal action, violation of court orders, including
22 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
23 fines, imprisonment or other penalties, including compulsory community service.
24 _____

25
26 (c) A motion, affidavit and order that may be filed by either party and providing for waiver of
27 any mediation requirement on a showing of good cause.

28 (2) In addition to any other remedy the court may impose to enforce the provisions of a judg-
29 ment relating to the parenting plan, the court may:

30 (a) Modify the provisions relating to the parenting plan by:

31 (A) Specifying a detailed parenting time schedule;

32 (B) Imposing additional terms and conditions on the existing parenting time schedule; or

33 (C) Ordering additional parenting time, in the best interests of the child, to compensate for
34 wrongful deprivation of parenting time;

35 (b) Order the party who is violating the parenting plan provisions to post bond or security;

36 (c) Order either or both parties to attend counseling or educational sessions that focus on the
37 impact of violation of the parenting plan on children;

38 (d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees
39 and court costs, incurred in enforcing the party's parenting plan;

40 (e) Terminate, suspend or modify spousal support;

41 (f) Terminate, suspend or modify child support as provided in ORS 107.431; or

42 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

43 **SECTION 15.** ORS 107.500 is amended to read:

44 107.500. Each circuit court shall make available with appropriate forms an instructional bro-
45 chure prescribed by the State Court Administrator and describing the procedures set forth in this

1 section and ORS 107.485 and 107.490. The content of the forms used pursuant to this section and
2 ORS 107.485 and 107.490 shall be substantially as follows:

3 _____
4
5 IN THE CIRCUIT COURT OF
6 THE STATE OF OREGON FOR
7 THE COUNTY OF _____

8 In the Matter of)
9 the Marriage of)
10) No. _____
11 _____,)
12 Petitioner,) PETITION FOR
13) SUMMARY
14) DISSOLUTION
15 and) OF MARRIAGE
16)
17 _____,)
18 Respondent.)
19)

20 1. (_____, Petitioner,) (_____, Respondent,) has been a resident
21 of Oregon continuously for the past six months before filing this petition.

22 2. Statistical Facts:

23 a. Date of marriage:

24 _____

25 b. Place of marriage:

26 _____

27 c. Wife's address:

28 _____

29 d. Wife's maiden name:

30 _____

31 e. Wife's former legal names:

32 _____

33 f. Wife's age:

34 _____

35 g. Husband's address:

36 _____

37 h. Husband's former legal names:

38 _____

39 i. Husband's age:

40 _____

41 3. My spouse and I have not been married more than 10 years.

42 4. Petitioner does not know of any pending (not yet decided by a judge) domestic relations suits
43 involving this marriage in this or any other state.

44 5. There are no minor children born to the parties or born during the marriage. There are no
45 adopted minor children. The wife is not now pregnant.

1 6. Petitioner requests a dissolution because irreconcilable differences between the parties have
2 caused the irremediable breakdown of the marriage.

3 7. The personal property of the parties is not worth more than \$30,000. Petitioner requests that
4 the Court divide the property as follows:

5 (a) The wife should be awarded the following personal property:

6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____

14 Additional pages have been attached and labeled "7a. continued."

15 (b) The husband should be awarded the following personal property:

16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____

24 Additional pages have been attached and labeled "7b. continued."

25 (c) The husband and wife should each sign any documents necessary to remove his or her name
26 as owner of personal property awarded to the other party.

27 8. Neither the husband nor the wife own any real property.

28 9. The debts incurred by the husband and wife together or separately from the date of the
29 marriage are not greater than \$15,000.

30 Petitioner requests the following division of debts:

31 (a) The wife be required to pay the debts listed below. The husband is awarded a judgment
32 against the wife in the sum of \$_____. The wife can satisfy this judgment by paying off the
33 following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

39 (b) The husband be required to pay the debts listed below. The wife is awarded a judgment
40 against the husband in the sum of \$_____. The husband can satisfy the judgment by paying off
41 the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____

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10. I relinquish all rights I may have to spousal support and waive any right to pendente lite orders (temporary orders) except those pursuant to ORS 107.700 to 107.735 (the Family Abuse Prevention Act) or 124.005 to 124.040 (the Elderly Persons and Persons With Disabilities Abuse Prevention Act).

(Complete only if petitioner is paying fees and wants reimbursement from spouse or if fees are being deferred for the petitioner.)

11. (a) If petitioner has paid court costs and service fees, petitioner requests that costs and fees paid by petitioner be repaid by respondent spouse, _____, and that a judgment in the amount of such costs and fees be entered in favor of petitioner, _____, in the amount of \$_____.

(b) If fees are being deferred for petitioner:

Petitioner requests that judgment be entered against

(_____, Petitioner)

(_____, Respondent) in favor of the state in the amount of \$_____.

12. Petitioner requests that:

wife's legal name be restored to

husband's legal name be restored to

(Petitioner's signature)

Address:

Telephone:_____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) SUMMONS FOR SUMMARY
) DISSOLUTION
) Marriage Dissolution Suit

1 and)
2)
3 _____,)
4 Respondent.)
5)

6 TO: Name of Respondent

7 _____
8 Address of Respondent
9 _____
10 _____, Oregon

11 YOU HAVE BEEN SUED. The court may decide against you without your being heard unless
12 you respond within 30 days of the day you received these papers. Read the information below.

13 NOTICE TO RESPONDENT:
14 READ THESE PAPERS CAREFULLY

15 Your spouse has filed a petition with the court to end your marriage and asking to divide your
16 property and debts, if any. You must “appear” in this case or the court will grant your spouse’s
17 requests. To “appear,” you must file with the court a legal paper called a “motion” or “answer.”
18 The “motion” or “answer” must be given to the Court Clerk or Administrator at: (location)
19 _____ within 30 days of the day you received these papers, along with the re-
20 quired filing fee. The “motion” or “answer” must be in proper form and you must show that your
21 spouse has been served with a copy of it.

22 _____
23 Name of Petitioner
24 _____
25 Address of Petitioner
26 _____
27 City/State/Zip Code

28 Important Information about Respondent (A recent photo may be attached in addition to the
29 requested information.)

30 Height: _____
31 Weight: _____
32 Race: _____
33 Date of Birth: _____
34 Automobile license number and description:
35 _____
36 Other identifying information:
37 _____
38 Best time and place to locate:
39 _____
40 _____

41
42 IN THE CIRCUIT COURT OF
43 THE STATE OF OREGON FOR
44 THE COUNTY OF _____

45 In the Matter of)

1 the Marriage of)
 2) No. _____
 3 _____,)
 4 Petitioner,) AFFIDAVIT OF PROOF
 5) OF SERVICE
 6)
 7 and)
 8)
 9 _____,)
 10 Respondent.)
 11)

12 STATE OF OREGON)
 13) ss.
 14 County of)

15 I, _____, swear/affirm under oath that:

16 I am a resident of the State of Oregon. I am a competent person over 18 years of age. I am not
 17 an attorney for or a party to this case, or an officer, director or employee of any party to this case.
 18 On the _____ day of _____, 2____, I served the Summons and Petition in this case per-
 19 sonally upon the above named respondent in _____ County by delivering to the respondent
 20 a copy of those papers, each of which was certified to be a true copy of each original.

21 _____
 22 Signature of _____

23 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2____.

24 _____
 25 NOTARY PUBLIC FOR OREGON
 26 My Commission Expires: _____
 27 _____

28
 29 IN THE CIRCUIT COURT OF
 30 THE STATE OF OREGON FOR
 31 THE COUNTY OF _____

32 In the Matter of)
 33 the Marriage of)
 34) No. _____
 35 _____,)
 36 Petitioner,) MOTION AND ORDER FOR
 37) WAIVER OF FEES
 38)
 39 and)
 40)
 41 _____,)
 42 Respondent.)
 43)

44 Petitioner moves the Court for an order waiving payment of filing fees, service fees, and other
 45 costs.

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

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In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) PETITIONER'S
) AFFIDAVIT, MOTION
) AND ORDER FOR
and) DEFAULT JUDGMENT
) OF DISSOLUTION
)
_____,)
Respondent.)
)
STATE OF OREGON)
) ss.
County of)

I, _____, swear/affirm under oath that:

I am the Petitioner. The Respondent is not now nor was at the time of the commencement of this suit in the military service of the United States; nor is the Respondent a legally mentally incapacitated person; nor is the Respondent under 18 years of age.

The Respondent was served with Summons and Petition for Dissolution on the _____ day of _____, 2____, in _____ County, Oregon, and has failed to answer or appear.

Petitioner

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2____.

NOTARY PUBLIC FOR OREGON
My Commission Expires _____

Petitioner moves the Court for an Order entering the default of Respondent.

Petitioner

Address of Petitioner

City, State Zip

ORDER

IT IS SO ORDERED.

DATED: This _____ day of _____, 2____.

CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

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In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) JUDGMENT OF
) SUMMARY DISSOLUTION
)
and)
)
_____,)
Respondent.)
)
)

Statistical Facts:

- a. Date of marriage:

- b. Place of marriage:

- c. Wife's address:

- d. Wife's maiden name:

- e. Wife's former legal names:

- f. Wife's age:

- g. Husband's address:

- h. Husband's former legal names:

- i. Husband's age:

This matter came before the Court for default. Petitioner appeared (in person) (by affidavit), and Respondent did not appear. THE COURT HAS BEEN FULLY ADVISED, AND JUDGMENT IS RENDERED AS FOLLOWS:

- 1. Dissolution: This marriage is dissolved and shall terminate on _____.
- 2. Prior Wills: Any will previously executed by either spouse with provisions in favor of the other spouse is revoked with respect to those provisions, unless the will expresses a different intent.
- 3. Division of Property: (a) The wife is awarded and shall own by herself the following personal property:

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Additional pages have been attached as C-1.

(b) The husband is awarded and shall own by himself the following personal property:

Additional pages have been attached as C-2.

(c) Husband and wife each shall sign any documents necessary to remove his or her name as owner of personal property awarded to the other. If either fails to sign the necessary documents, a certified copy of the Judgment shall serve as a conveyance of the property.

4. Payment of Debts: (a) The wife shall pay the debts listed below. The husband is awarded a judgment against the wife in the sum of \$_____. The wife can satisfy this judgment by paying the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

Additional pages have been added as D-1.

(b) The husband shall pay the debts listed below. The wife is awarded a judgment against the husband in the sum of \$_____. The husband can satisfy the judgment by paying the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

Additional pages have been added as D-2.

5. The wife shall have her former legal name restored. The restored name is:

The husband shall have his former legal name restored. The restored name is:

6. A judgment against (the husband) (the wife) for court costs and service fees in the amount of \$_____ is awarded to (the husband) (the wife) (this state if fees were waived or deferred).

DATED: This ____ day of _____, 2___.

CIRCUIT COURT JUDGE

SECTION 16. ORS 108.130, as amended by section 63, chapter 702, Oregon Laws 2005, is amended to read:

108.130. At the time of filing the petition for an order of support, the petitioner shall pay to the clerk of the court a fee of \$6, which shall cover all charges incident to the filing of papers necessary to a complete determination of the matter and no part of which shall be applied toward the library fund of the county. Payment of the fee is subject to the provisions of [ORS 21.605] **sections 1 to 7 of this 2007 Act** applicable to waiver, deferral and payment of fees.

SECTION 17. ORS 18.718 is amended to read:

18.718. (1) Notwithstanding ORS 18.700 (2), if a writ of garnishment is issued pursuant to ORS 25.083, the debtor may:

(a) Challenge the enforcement of the past due support in the appropriate tribunal of the state upon whose request the writ was issued as indicated in the writ of garnishment; or

(b) File a challenge to the garnishment with the court administrator for the court in the county in which the property was located when the writ was delivered, if the debtor pays the filing fee required for an appearance [under ORS chapter 21] and files with the court administrator copies of the writ of garnishment, the debt calculation form and the garnishee response delivered to the debtor under ORS 18.658.

(2) When a challenge to a garnishment is filed under this section, the court administrator shall enter the filing in the court register and the court shall decide the challenge in the manner provided by ORS 18.710.

(3) Immediately upon receipt of a notice of a challenge to a garnishment under this section, the issuer of the writ shall file with the court administrator a response to the challenge, attaching copies of the writ of garnishment and garnishee response, and any supporting documentation necessary or helpful to the court in making a determination on the challenge.

SECTION 18. ORS 21.605 is repealed.

SECTION 18a. Notwithstanding section 19, chapter 129, Oregon Laws 2007 (Enrolled House Bill 2357) (amending ORS 21.605), if House Bill 2357 becomes law, ORS 21.605 is repealed.

SECTION 18b. If House Bill 2357 becomes law, ORS 105.130, as amended by section 55, chapter 702, Oregon Laws 2005, and section 8 of this 2007 Act, is amended to read:

105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161, an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of this state.

(2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the clerk shall:

(a) Collect a filing fee of \$13;

(b) Collect any other fee authorized by law or ordinance; and

(c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons and complaint for service.

(3) After a complaint is filed under subsection (2) of this section, if the defendant demands a

1 trial, the plaintiff shall pay an additional filing fee of \$29 and the defendant shall pay a filing fee
2 of \$33.

3 (4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to
4 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to
5 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent
6 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

7 (5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an
8 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

9 (a) The Attorney General consents to the representation of the agency by an officer or employee
10 in the particular action or in the class of actions that includes the particular action; and

11 (b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the partic-
12 ular type of action being conducted.

13 (6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect a
14 surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees estab-
15 lished by subsection (2) of this section and from a defendant at the time a defendant demands a trial
16 in the action. The surcharge shall be deposited by the State Court Administrator into the State
17 Treasury to the credit of the Housing and Community Services Department Low Income Rental
18 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

19 (7) A *[paper]* **document** or pleading shall be filed by the clerk only if the fees and surcharges
20 required under this section are paid by the person filing the *[paper]* **document** or pleading or if an
21 application for a waiver or deferral of fees and court costs is granted by the court under sections
22 1 to 7 of this 2007 Act. Fees and surcharges provided for in this section may not be refunded.

23 **SECTION 18c. If Senate Bill 269 becomes law, section 15 of this 2007 Act (amending ORS**
24 **107.500) is repealed and ORS 107.500, as amended by section 5, chapter 11, Oregon Laws 2007**
25 **(Enrolled Senate Bill 269), is amended to read:**

26 107.500. (1) The State Court Administrator shall prescribe the content of forms for use under
27 ORS 107.485 and 107.490, including forms related to the waiver or deferral of fees and **court** costs
28 under *[ORS 21.605]* **sections 1 to 7 of this 2007 Act**, and an instructional brochure describing the
29 procedures set forth in ORS 107.485 and 107.490.

30 (2) Each circuit court shall make available the appropriate forms and the instructional brochure
31 described in subsection (1) of this section.

32 **SECTION 19. The section captions used in this 2007 Act are provided only for the con-**
33 **venience of the reader and do not become part of the statutory law of this state or express**
34 **any legislative intent in the enactment of this 2007 Act.**