

Senate Bill 271

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Judicial Department)

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**.

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.

Directs court administrator to file pleadings and papers submitted with application for waiver or deferral. Provides that paper or pleading is of no effect, and that court administrator shall so note in register, if waiver or deferral not granted and party fails to pay fee or costs within time allowed.

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, 21.110, 21.111, 21.114, 21.310,
3 21.607, 21.615, 30.643, 30.645, 30.647, 36.520, 46.570, 105.130, 107.434, 107.500 and 108.130; and
4 repealing ORS 21.605.

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

6 **SECTION 1. Definitions. As used in sections 1 to 8 of this 2007 Act:**

7 (1) **"Applicant" means a person who applies for waiver or deferral of fees or court costs**
8 **under sections 1 to 8 of this 2007 Act.**

9 (2) **"Court administrator" means:**

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

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

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

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

17 (4) **"Obligor" means a person who has had payment of all or part of fees or court costs**
18 **deferred under sections 1 to 8 of this 2007 Act.**

19 **SECTION 2. Authority to waive or defer fees and court costs; delegation. (1) A judge may**
20 **wave or defer all or part of the fees and court costs payable by the party in a civil action**
21 **or proceeding if the judge finds that the party is unable to pay all or any part of the fees and**
22 **costs. Waiver or deferral under this section of the fees or court costs of an inmate, as de-**
23 **finied in ORS 30.642, is subject to ORS 30.642 to 30.650.**

24 (2) **A presiding judge may delegate authority to waive or defer fees and court costs to the**
25 **court administrator for the court in which the judge serves. A delegation of authority under**

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 this subsection must be in writing and must be subject to clear standards. If a delegation is
2 made under this subsection, an applicant may seek review of the court administrator's deci-
3 sion by a judge. If an applicant requests review of a court administrator's decision, the
4 court administrator shall forward the application for waiver or deferral of the fees or court
5 costs to the appropriate judge.

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

8 (4) The Chief Justice of the Supreme Court by order may provide standards and practices
9 for waiver or deferral of fees or court costs under sections 1 to 8 of this 2007 Act.

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

17 **SECTION 4. Papers and pleadings filed with application for waiver or deferral of fees or**
18 **court costs.** (1) If a party submits a paper or pleading for filing with an application for waiver
19 or deferral of fees or court costs, the court administrator shall accept the paper or pleading
20 and note in the register that the paper or pleading has been filed.

21 (2) If a court denies an application for waiver or deferral of the filing fee or first ap-
22 pearance fee in whole or part and the applicant cannot immediately pay the filing fee or first
23 appearance fee, the court shall establish a date by which the fee must be paid. The date may
24 not be later than 10 days after the application is denied nor later than one judicial day before
25 any trial or hearing scheduled by the court in the matter.

26 (3) If an applicant does not pay the filing fee or first appearance fee within the time al-
27 lowed under subsection (2) of this section, any paper or pleading filed with the application for
28 waiver or deferral is stricken and is of no effect, and the clerk shall so note in the register.

29 (4) If an applicant does pay the filing fee or first appearance fee within the time allowed
30 under subsection (2) of this section, any paper or pleading filed with the application for
31 waiver or deferral is deemed filed as of the date noted in the register under subsection (1)
32 of this section.

33 **SECTION 5. Obligor as prevailing party.** (1) If an obligor prevails in the action or pro-
34 ceeding for which fees or court costs were waived, the court may include in the judgment a
35 money award, payable by any party who is liable to the obligor for costs and disbursements
36 in the action or proceeding, in an amount equal to all waived fees or court costs. The money
37 award shall be in favor of the state in courts other than justice courts and county courts.
38 In justice courts and county courts, the money award shall be in favor of the county in which
39 the justice court or county court is located. The judgment debtor must pay the money award
40 amount to the court administrator.

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

43 **SECTION 6. Judgment for deferred fees and court costs.** (1) In courts other than justice
44 courts and county courts, fees and court costs deferred under sections 1 to 8 of this 2007
45 Act constitute a monetary obligation of the obligor that is payable to the state. In justice

1 courts and county courts, fees and court costs deferred under sections 1 to 8 of this 2007
 2 Act constitute a monetary obligation of the obligor that is payable to the county in which
 3 the justice court or county court is located. The court may render a judgment in favor of
 4 the state or county for any unpaid part of the obligation. A limited or supplemental judgment
 5 may be rendered for the obligation, or the obligation may be included in the general judgment
 6 in an action or proceeding. If the court renders a limited judgment for the obligation, the
 7 money award may be only for unpaid fees and court costs and may not include any other
 8 financial obligation. A court administrator may sign a judgment for deferred fees and costs
 9 on behalf of the court.

10 (2) A court may render a limited or supplemental judgment for unpaid deferred fees or
 11 costs, or include a money award for the obligation in a general judgment, without further
 12 notice to the obligor or further order of the court.

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

19 **SECTION 7. Waiver or deferral of costs of transcript on appeal.** (1) In a civil action or
 20 proceeding, the Supreme Court or the Court of Appeals may waive in whole or in part, defer
 21 in whole or in part, or partially waive and partially defer, the expense of preparing a tran-
 22 script on appeal if:

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

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

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

33 (3) If the Supreme Court or the Court of Appeals defers payment of any part of the ex-
 34 pense of preparing a transcript on appeal and any part of the deferred expense remains un-
 35 paid at the conclusion of the appeal, a judgment may be entered for the unpaid amount in
 36 the manner provided by section 6 of this 2007 Act.

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

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

43 **SECTION 8.** (1) Except as provided in subsection (2) of this section, information supplied
 44 by a person filing an application for waiver or deferral of fees or court costs, and information
 45 collected by the courts for purposes of determining eligibility for waiver or deferral of fees

1 or costs, is confidential and may not be used for any purpose other than determining eligi-
2 bility for waiver or deferral.

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

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

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

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

11 (d) Released pursuant to a subpoena issued as a result of an allegation that a person has
12 supplied false information in seeking waiver or deferral of fees or court costs.

13 **SECTION 9.** ORS 21.110, as amended by section 11, chapter 702, Oregon Laws 2005, is amended
14 to read:

15 21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court
16 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect
17 from the plaintiff, appellant or moving party the sum of \$107 as a flat and uniform filing fee. In ad-
18 dition, at the time of filing any appearance in any such action, suit or proceeding by any defendant
19 or respondent appearing separately, or upon the part of defendants or respondents appearing jointly,
20 the clerk shall collect from the party or parties the sum of \$83 as a flat and uniform filing fee.

21 (2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 as a flat
22 and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed,
23 and shall collect the sum of \$53 as a flat and uniform filing fee from any defendant or respondent
24 appearing separately, or upon the part of defendants or respondents appearing jointly, at the time
25 of filing any appearance in the action:

26 (a) Actions for the recovery of money or damages only when the amount claimed does not ex-
27 ceed \$10,000.

28 (b) Actions for the recovery of specific personal property when the value of the property claimed
29 and the damages for the detention do not exceed \$10,000.

30 (c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out
31 of contract, not exceeding \$10,000.

32 (d) Actions to enforce, marshal and foreclose liens upon personal property where the amount
33 claimed for such liens does not exceed \$10,000.

34 (e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the
35 value of the property involved does not exceed \$10,000.

36 (f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed
37 does not exceed \$10,000.

38 (3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the
39 petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees
40 collected under this subsection shall be deposited into the Judicial Department Operating Account
41 established in ORS 1.009.

42 (4) For purposes of subsection (2) of this section, the amount claimed, value of property, damages
43 or any amount in controversy does not include any amount claimed as costs and disbursements or
44 attorney fees as defined by ORCP 68 A.

45 (5) **Except as provided in section 4 of this 2007 Act,** a paper or pleading shall be filed by the

1 clerk only if the fee required under this section is paid by the person filing the paper or pleading[,
2 *or if a request for a fee waiver or deferral is granted by the court*]. No part of any such filing fee shall
3 be refunded to any party. The uniform fee shall cover all services to be performed by the court or
4 clerk in any such action, suit or proceeding, except where additional fees are specially authorized
5 by law.

6 (6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-
7 pearance that is subject to the filing fees established under subsection (2) of this section must in-
8 clude in the caption of the pleading the following words: "Claim of not more than \$10,000."

9 (7) The fees imposed by this section do not apply to:

10 (a) Protective proceedings under ORS chapter 125;

11 (b) Proceedings for dissolution of marriage, annulment of marriage or separation;

12 (c) Filiation proceedings under ORS 109.124 to 109.230;

13 (d) Proceedings to determine custody or support of a child under ORS 109.103;

14 (e) Probate, adoption or change of name proceedings;

15 (f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee
16 is provided by ORS 105.130; or

17 (g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the
18 action or proceeding.

19 (8) The fees described in this section shall not be charged to a district attorney or to the Divi-
20 sion of Child Support of the Department of Justice for the filing of any case, motion, document,
21 stipulated order, process or other document relating to the provision of support enforcement ser-
22 vices as described in ORS 25.080.

23 **SECTION 10.** ORS 21.111, as amended by section 15, chapter 702, Oregon Laws 2005, is
24 amended to read:

25 21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit
26 court shall collect the sum of \$99 as a flat and uniform filing fee from the petitioner at the time the
27 petition is filed, and shall collect the sum of \$51 as a flat and uniform filing fee from the respondent
28 upon the respondent making an appearance.

29 (2) The filing fee established by subsection (1) of this section shall be collected by the clerk in
30 the following proceedings:

31 (a) Proceedings for dissolution of marriage, annulment of marriage or separation.

32 (b) Filiation proceedings under ORS 109.124 to 109.230.

33 (c) Proceedings to determine custody or support of a child under ORS 109.103.

34 (3) In addition to all other fees collected, the clerk of the circuit court shall collect from the
35 moving party a fee of \$50 at the time of the filing of a motion after entry of a judgment of marital
36 annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party at the
37 time a response is filed to the motion. The fee provided for in this subsection does not apply to any
38 pleading under ORCP 68, 69 or 71.

39 (4) **Except as provided in section 4 of this 2007 Act**, a paper or pleading shall be filed by the
40 clerk only if the fee required under this section is paid [*or if a request for a fee waiver or deferral*
41 *is granted by the court*]. No part of any such filing fee shall be refunded to any party. The uniform
42 fee shall cover all services to be performed by the court or clerk in any of the proceedings, except
43 where additional fees are specially authorized by law.

44 (5) Any petitioner or respondent that files a petition or appearance that is subject to the filing
45 fees established under subsection (1) of this section must include in the caption of the pleading the

1 following words: "Domestic relations case subject to fee under ORS 21.111."

2 (6) The fees described in this section shall not be charged to a district attorney or to the Divi-
 3 sion of Child Support of the Department of Justice for the filing of any case, motion, document,
 4 stipulated order, process or other document relating to the provision of support enforcement ser-
 5 vices as described in ORS 25.080.

6 **SECTION 11.** ORS 21.114, as amended by section 19, chapter 702, Oregon Laws 2005, is
 7 amended to read:

8 21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

9 (a) In an adoption proceeding, a first appearance fee of \$39 from the party filing the petition for
 10 adoption, and a first appearance fee of \$23 from an objecting party appearing separately or objecting
 11 parties appearing jointly.

12 (b) In a change of name proceeding, a first appearance fee of \$39 from the party filing the ap-
 13 plication for change of name, and a first appearance fee of \$23 from an objecting party appearing
 14 separately or objecting parties appearing jointly.

15 (2) **Except as provided in section 4 of this 2007 Act**, a paper or pleading shall be filed by the
 16 clerk only if the fee required under this section is paid [*or if a request for a fee waiver or deferral*
 17 *is granted by the court*].

18 (3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of the
 19 court shall charge and collect in advance from the party having the affirmative of the issue, at the
 20 time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,
 21 a trial or hearing fee of \$39.

22 **SECTION 12.** ORS 21.310, as amended by section 31, chapter 702, Oregon Laws 2005, is
 23 amended to read:

24 21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk
 25 of the court shall charge and collect the following fees for the filing of the initial papers in any
 26 probate proceeding, including petitions for the appointment of personal representatives, probate of
 27 wills and contest of wills, or in any conservatorship proceeding:

28
 29
 30 Where the amount of the estate is:

- 31 1. Not more than \$10,000-a fee of \$23.
- 32 2. More than \$10,000 and not more than \$25,000-a fee of \$77.
- 33 3. More than \$25,000 and not more than \$50,000-a fee of \$154.
- 34 4. More than \$50,000 and not more than \$100,000-a fee of \$231.
- 35 5. More than \$100,000 and not more than \$500,000-a fee of \$308.
- 36 6. More than \$500,000 and not more than \$1,000,000-a fee of \$385.
- 37 7. More than \$1,000,000-a fee of \$462.

38
 39
 40 (2) In determining fees under subsection (1) of this section in a probate proceeding, the amount
 41 of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse
 42 or dependents is not part of the estate.

43 (3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$23 for the
 44 filing of the initial papers in any guardianship proceeding.

45 (4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$8 at the

1 time of filing a will without a petition for probate.

2 (5) At the time of filing any answer, motion or objection in a probate proceeding or protective
3 proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee
4 of \$19 to the clerk.

5 (6) **Except as provided in section 4 of this 2007 Act**, a paper or pleading shall be filed by the
6 clerk only if the fee required under this section is paid [*or if a request for a fee waiver or deferral*
7 *is granted by the court*].

8 (7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court having
9 probate jurisdiction, the clerk shall charge and collect in advance from the party having the affir-
10 mative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact
11 or law involved therein, a trial or hearing fee of \$39.

12 **SECTION 13.** ORS 36.520, as amended by section 43, chapter 702, Oregon Laws 2005, is
13 amended to read:

14 36.520. (1) Recourse to a court against an arbitral award may only be by an application for
15 setting aside in accordance with subsections (2) and (3) of this section.

16 (2) An arbitral award may be set aside by the circuit court only if:

17 (a) The party making application furnishes proof that:

18 (A) A party to the arbitration agreement referred to in ORS 36.466 was under some incapacity
19 or that the agreement is not valid under the law to which the parties have subjected it or, failing
20 any indication thereon, under the laws of the State of Oregon or the United States;

21 (B) The party making the application was not given proper notice of the appointment of an
22 arbitrator or of the arbitral proceedings or was otherwise unable to present the party's case;

23 (C) The award deals with a dispute not contemplated by or not falling within the terms of the
24 submission to arbitration or contains decisions on matters beyond the scope of the submission to
25 arbitration, provided that, if the decisions on matters not submitted to arbitration can be separated
26 from those not so submitted, only that part of the award which contains decisions on matters not
27 submitted to arbitration may be set aside; or

28 (D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance
29 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS
30 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-
31 cordance with ORS 36.450 to 36.558; or

32 (b) The circuit court finds that:

33 (A) The subject matter of the dispute is not capable of settlement by arbitration under the laws
34 of the State of Oregon or of the United States; or

35 (B) The award is in conflict with the public policy of the State of Oregon or of the United
36 States.

37 (3) An application for setting aside may not be made after three months have elapsed from the
38 date on which the party making that application had received the award or, if a request had been
39 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral
40 tribunal.

41 (4) The circuit court, when asked to set aside an arbitral award, may, where appropriate and
42 so requested by a party, suspend the setting aside proceedings for a period of time determined by
43 it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take
44 such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

45 (5) The clerk of the circuit court shall collect from the party making application for setting

1 aside under subsection (1) of this section a filing fee of \$39 and from a party filing an appearance
 2 in opposition to the application a filing fee of \$23. However, if the application relates to an arbitral
 3 award made following an application or request to a circuit court under any [section] **provision** of
 4 ORS 36.450 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing
 5 fees shall not be collected under this subsection. **Except as provided in section 4 of this 2007 Act,**
 6 an application for setting aside or an appearance in opposition thereto shall not be deemed filed
 7 unless the fee required by this subsection is paid by the filing party.

8 **SECTION 14.** ORS 46.570, as amended by section 51, chapter 702, Oregon Laws 2005, is
 9 amended to read:

10 46.570. (1) In the small claims department of circuit court there shall be charged and collected
 11 in civil cases by the clerk of the court the following fees for the following purposes and services:

12 (a)(A) Plaintiff filing a claim, \$26 when the amount or value claimed does not exceed \$1,500, and
 13 \$55 when the amount or value claimed exceeds \$1,500; and

14 (B) Defendant demanding a hearing, \$21 when the amount or value claimed by plaintiff does not
 15 exceed \$1,500, and \$43 when the amount or value claimed by plaintiff exceeds \$1,500.

16 (b) Transcription of judgment from small claims department, \$7.

17 (c) Transfer of cause to circuit court on counterclaim, \$12.

18 (2) Except as otherwise provided in subsection (1) of this section, fees provided for in this sec-
 19 tion shall be collected in advance. **Except as provided in section 4 of this 2007 Act,** a paper or
 20 pleading shall be filed by the clerk only if the required fee is paid [*or if a request for a fee waiver*
 21 *or deferral is granted by the court*]. Fees provided for in this section may not be refunded.

22 **SECTION 15.** ORS 105.130, as amended by section 55, chapter 702, Oregon Laws 2005, is
 23 amended to read:

24 105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,
 25 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of
 26 this state.

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

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

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

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

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

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

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

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

45 (b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the partic-

1 ular type of action being conducted.

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

8 **(7) Except as provided in section 4 of this 2007 Act, a paper or pleading shall be filed by**
9 **the clerk only if the fees required under this section are paid by the person filing the paper**
10 **or pleading.** Fees and surcharges provided for in this section may not be refunded.

11 **SECTION 16.** ORS 21.607 is amended to read:

12 21.607. (1) Notwithstanding ORS 82.010, judgments resulting from the deferral of fees and court
13 costs under the provisions of [*ORS 21.605*] **sections 1 to 8 of this 2007 Act** bear no interest.

14 (2) If a judge of a circuit or county court defers payment of any fees or court costs under the
15 provisions of [*ORS 21.605*] **sections 1 to 8 of this 2007 Act**, and the amount of those deferred fees
16 or court costs is subsequently paid in full, the trial court administrator for the court shall note in
17 the register or docket that the deferred fees and costs have been paid in full. Notation in the reg-
18 ister or docket that deferred fees and costs have been paid in full constitutes a satisfaction of the
19 judgment for those fees and costs.

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

27 (4) Upon notation in the register or docket that deferred fees and costs have been paid in full,
28 a certified copy of the notation may be filed with any circuit court or County Clerk Lien Record in
29 which the judgment was filed under the provisions of [*ORS 21.605*] **sections 1 to 8 of this 2007**
30 **Act.** Upon filing of the certified copy, the trial court administrator for the court, or the county clerk
31 if the judgment was filed in the County Clerk Lien Record, shall cause the certified copy to be en-
32 tered in the register or docket of the court or recorded in the County Clerk Lien Record.

33 (5) Judgments resulting from the deferral of fees and court costs under the provisions of [*ORS*
34 *21.605*] **sections 1 to 8 of this 2007 Act** may not be compromised, settled or adjusted by a trial
35 court administrator or the State Court Administrator.

36 **SECTION 17.** ORS 21.615 is amended to read:

37 21.615. (1) In an appeal to a circuit court from a justice court or municipal court in an action
38 for commission of a state violation or an action for violation of a city charter or ordinance, but not
39 in an action for commission of a state crime:

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

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

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

44 (3) Fees required by subsection (1) of this section may be waived or deferred by a judge of the
45 circuit court for the reason and in the manner provided in [*ORS 21.605*] **sections 1 to 8 of this 2007**

1 **Act.**

2 **SECTION 18.** ORS 30.643 is amended to read:

3 30.643. (1) If an inmate seeks to file an action against a public body, the fees and court costs
4 of the inmate may be waived or deferred only in the manner provided by this section.

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

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

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

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

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

33 **SECTION 19.** ORS 30.645 is amended to read:

34 30.645. (1) Except as provided in subsection (2) of this section, the court may not waive or defer
35 an inmate's fees or court costs under ORS 30.643 if the inmate has, on three or more prior occasions
36 while incarcerated or detained in any correctional facility, filed an action against a public body in
37 a court of this state that was dismissed on the grounds that the action:

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

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

SECTION 20. ORS 30.647 is amended to read:

30.647. (1) If fees or court costs of an inmate have been waived or deferred under ORS 30.643, a court shall dismiss the case if at any time the court determines that the inmate was in fact able to pay fees and court costs at the time the application for waiver or deferral was made under [ORS 21.605] **sections 1 to 8 of this 2007 Act.**

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

(a) Is frivolous or malicious;

(b) Fails to state a claim upon which relief may be granted, and the court denies leave to amend;

or

(c) Seeks monetary relief against a defendant who is immune from a claim for monetary relief.

(3) Upon appeal of any dismissal under this section, the Court of Appeals on its own motion, or on the motion of the respondent, may summarily affirm the judgment of the trial court, with or without submission of briefs and without oral argument, if the Court of Appeals determines that the appeal does not present a substantial question of law. Notwithstanding ORS 2.570, the Chief Judge of the Court of Appeals may deny a respondent’s motion for summary affirmance under this subsection or may grant the motion if the petitioner does not oppose the motion. A dismissal of an appeal under this subsection constitutes a decision on the merits of the case.

SECTION 21. ORS 107.434, as amended by section 59, chapter 702, Oregon Laws 2005, is amended to read:

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

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

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

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

(B) A notice in substantially the following form:

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

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

(2) In addition to any other remedy the court may impose to enforce the provisions of a judgment relating to the parenting plan, the court may:

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

(A) Specifying a detailed parenting time schedule;

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

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

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

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

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

(e) Terminate, suspend or modify spousal support;

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

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

SECTION 22. ORS 107.500 is amended to read:

107.500. Each circuit court shall make available with appropriate forms an instructional brochure prescribed by the State Court Administrator and describing the procedures set forth in this section and ORS 107.485 and 107.490. The content of the forms used pursuant to this section and ORS 107.485 and 107.490 shall be substantially as follows:

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

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

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

2. Statistical Facts:

a. Date of marriage:

b. Place of marriage:

c. Wife's address:

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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:

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

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

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

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

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

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

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

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

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

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

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

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

3 Petitioner requests the following division of debts:

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

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

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

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

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

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

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

30 (b) If fees are being deferred for petitioner:

31 Petitioner requests that judgment be entered against

32
33 (_____, Petitioner)

34
35 (_____, Respondent) in favor of the state in the amount of \$_____.

36 12. Petitioner requests that:

37
38 wife's legal name be restored to

39
40 _____

41
42 husband's legal name be restored to

43
44 _____

45 _____

1 (Petitioner's signature)
2 Address:
3 _____
4 _____
5 _____
6 Telephone: _____

7 _____
8

9 IN THE CIRCUIT COURT OF
10 THE STATE OF OREGON FOR
11 THE COUNTY OF _____

12 In the Matter of)
13 the Marriage of)
14) No. _____
15 _____,)
16 Petitioner,) SUMMONS FOR SUMMARY
17) DISSOLUTION
18) Marriage Dissolution Suit
19 and)
20)
21 _____,)
22 Respondent.)
23)

24 TO: Name of Respondent
25 _____
26 Address of Respondent
27 _____
28 _____, Oregon

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

31 NOTICE TO RESPONDENT:
32 READ THESE PAPERS CAREFULLY

33 Your spouse has filed a petition with the court to end your marriage and asking to divide your
34 property and debts, if any. You must "appear" in this case or the court will grant your spouse's
35 requests. To "appear," you must file with the court a legal paper called a "motion" or "answer."
36 The "motion" or "answer" must be given to the Court Clerk or Administrator at: (location)
37 _____ within 30 days of the day you received these papers, along with the re-
38 quired filing fee. The "motion" or "answer" must be in proper form and you must show that your
39 spouse has been served with a copy of it.

40 _____
41 Name of Petitioner
42 _____
43 Address of Petitioner
44 _____
45 City/State/Zip Code

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

3 Height:_____

4 Weight:_____

5 Race:_____

6 Date of Birth:_____

7 Automobile license number and description:
8 _____

9 Other identifying information:
10 _____

11 Best time and place to locate:
12 _____
13 _____

14

15 IN THE CIRCUIT COURT OF
16 THE STATE OF OREGON FOR
17 THE COUNTY OF _____

18 In the Matter of)
19 the Marriage of)
20) No. _____
21 _____,)
22 Petitioner,) AFFIDAVIT OF PROOF
23) OF SERVICE
24)
25 and)
26)
27 _____,)
28 Respondent.)
29)

30 STATE OF OREGON)
31) ss.
32 County of)

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

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

39 _____
40 Signature of _____

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

42 _____
43 NOTARY PUBLIC FOR OREGON
44 My Commission Expires: _____

45 _____

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

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) MOTION AND ORDER FOR
) WAIVER OF FEES
)
and)
)
_____,)
Respondent.)
)

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

Petitioner

POINTS AND AUTHORITIES

[ORS 21.605] Sections 1 to 8 of this 2007 Act; the Court shall waive all fees and costs if the Court finds that the party is unable to pay such fees and costs.

ORDER

IT IS SO ORDERED.
DATED: This ____ day of _____, 2__.

COURT

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

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) AFFIDAVIT FOR
) WAIVER OF
and) FEES AND COSTS
)
_____,)
Respondent.)
)
STATE OF OREGON)

1) ss.
2 County of)

3 I, _____, being first duly sworn upon oath, depose and declare
4 that I am the petitioner for a Judgment of Summary Dissolution and am unable to pay necessary
5 filing fees, service fees and court costs. My total monthly income from all sources is
6 \$_____. I have \$_____ as assets and \$_____ as savings. I support _____
7 people. My monthly expenses are \$_____ housing, \$_____ food, \$_____ utilities, \$_____
8 transportation, \$_____ laundry, cleaning and personal requirements, \$_____ medical expenses,
9 \$_____ clothing, \$_____ telephone, \$_____ total installment payments, \$_____ other ex-
10 penses, for total monthly expenses of \$_____.

11 _____
12 Signature of _____

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

14 _____
15 NOTARY PUBLIC FOR OREGON
16 My Commission Expires _____

17 _____

18
19 IN THE CIRCUIT COURT OF
20 THE STATE OF OREGON FOR
21 THE COUNTY OF _____

22 In the Matter of)
23 the Marriage of)
24) No. _____
25 _____,)
26 Petitioner,) PETITIONER'S
27) AFFIDAVIT, MOTION
28) AND ORDER FOR
29 and) DEFAULT JUDGMENT
30) OF DISSOLUTION
31)
32 _____,)
33 Respondent.)
34)

35 STATE OF OREGON)
36) ss.
37 County of)

38 I, _____, swear/affirm under oath that:
39 I am the Petitioner. The Respondent is not now nor was at the time of the commencement of
40 this suit in the military service of the United States; nor is the Respondent a legally mentally in-
41 capacitated person; nor is the Respondent under 18 years of age.

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

44 _____
45 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 _____

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:

1 f. Wife's age:

2 _____

3 g. Husband's address:

4 _____

5 h. Husband's former legal names:

6 _____

7 i. Husband's age:

8 _____

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

12 1. Dissolution: This marriage is dissolved and shall terminate on _____.

13 2. Prior Wills: Any will previously executed by either spouse with provisions in favor of the
14 other spouse is revoked with respect to those provisions, unless the will expresses a different intent.

15 3. Division of Property: (a) The wife is awarded and shall own by herself the following personal
16 property:

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 Additional pages have been attached as C-1.

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

27 _____

28 _____

29 _____

30 _____

31 _____

32 _____

33 _____

34 _____

35 Additional pages have been attached as C-2.

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

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

42 Name of Creditor Amount Owed

43 _____

44 _____

45 _____

1 _____

2 Additional pages have been added as D-1.

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

<u>Name of Creditor</u>	<u>Amount Owed</u>
6 _____	_____
7 _____	_____
8 _____	_____
9 _____	_____
10 _____	_____

11 Additional pages have been added as D-2.

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

13 _____

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

15 _____

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

18 DATED: This ____ day of _____, 2____.

19 _____

20 CIRCUIT COURT JUDGE

21 _____

22

23 **SECTION 23.** ORS 108.130, as amended by section 63, chapter 702, Oregon Laws 2005, is
24 amended to read:

25 108.130. At the time of filing the petition for an order of support, the petitioner shall pay to the
26 clerk of the court a fee of \$6, which shall cover all charges incident to the filing of papers necessary
27 to a complete determination of the matter and no part of which shall be applied toward the library
28 fund of the county. Payment of the fee is subject to the provisions of [ORS 21.605] **sections 1 to 8**
29 **of this 2007 Act** applicable to waiver, deferral and payment of fees.

30 **SECTION 24.** ORS 18.718 is amended to read:

31 18.718. (1) Notwithstanding ORS 18.700 (2), if a writ of garnishment is issued pursuant to ORS
32 25.083, the debtor may:

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

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

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

43 (3) Immediately upon receipt of a notice of a challenge to a garnishment under this section, the
44 issuer of the writ shall file with the court administrator a response to the challenge, attaching
45 copies of the writ of garnishment and garnishee response, and any supporting documentation nec-

1 essary or helpful to the court in making a determination on the challenge.

2 **SECTION 25. ORS 21.605 is repealed.**

3 **SECTION 26. The section captions used in this 2007 Act are provided only for the con-**
4 **venience of the reader and do not become part of the statutory law of this state or express**
5 **any legislative intent in the enactment of this 2007 Act.**

6
