

HOUSE AMENDMENTS TO SENATE BILL 270

By COMMITTEE ON JUDICIARY

June 2

- 1 On page 1 of the printed bill, line 2, delete “18.005,” and insert “10.030,”.
- 2 In line 3, delete “and 135.707” and insert “, 135.707, 416.440 and 419A.200”.
- 3 On page 4, line 33, delete “21.410” and insert “21.410 (1)(a)”.
- 4 On page 5, delete lines 6 through 45.
- 5 On page 6, delete lines 1 through 18 and insert:
- 6 **“SECTION 6. Section 7 of this 2009 Act is added to and made a part of ORS chapter 18.**
- 7 **“SECTION 7. Except as provided in ORS 416.440 (6), a supplemental judgment may only**
- 8 **contain provisions that were not included in the general judgment.”.**
- 9 In line 19, delete “7” and insert “8”.
- 10 On page 7, line 3, delete “8” and insert “9”.
- 11 In line 14, delete “9” and insert “10”.
- 12 After line 16, insert:
- 13 **“SECTION 11. ORS 416.440 is amended to read:**
- 14 **“416.440. (1) The documents required to be filed for purposes of subsection (2) of this section**
- 15 **include all the following:**
- 16 **“(a) A true copy of any order entered, filed or registered by the administrator or administrative**
- 17 **law judge pursuant to ORS 416.400 to 416.465 or ORS chapter 110.**
- 18 **“(b) A true copy of the return of service, if applicable.**
- 19 **“(c) A separate statement containing the information required to be contained in a judgment**
- 20 **under ORS 18.042 (2).**
- 21 **“(2) The documents described under subsection (1) of this section shall be filed in the office of**
- 22 **the clerk of the circuit court in the county in which either the parent or the dependent child resides**
- 23 **or in the county where the court order was entered if the administrative order is an order modifying**
- 24 **a court order. Upon receipt of the documents, the clerk shall enter the order in the register of the**
- 25 **circuit court, shall note in the register that the order creates a lien and shall make the notations**
- 26 **required by ORS 18.075 in the judgment lien record maintained under ORS 18.075.**
- 27 **“(3) Upon entry in the register under subsection (2) of this section, the order shall have all the**
- 28 **force, effect and attributes of a judgment of the circuit court, including but not limited to:**
- 29 **“(a) Creation of a judgment lien under ORS chapter 18; and**
- 30 **“(b) Ability to be enforced by contempt proceedings and pursuant to ORS 18.252 to 18.993.**
- 31 **“(4) Notwithstanding subsection (3) of this section, an administrative order modifying a court**
- 32 **order shall not become effective until reviewed and approved by the court under ORS 416.425 (10).**
- 33 **“(5) Notwithstanding subsections (2) and (3) of this section, the entry in the register of an order**
- 34 **of the administrator or administrative law judge does not preclude any subsequent proceeding or**
- 35 **remedy available under ORS 416.400 to 416.465.**

1 **“(6) An order filed under this section that modifies a previously filed order or a previ-**
2 **ously entered judgment may contain provisions that were included in the order or judgment.**

3 “[(6)] (7) A court or administrative order of another state may be filed, or if appropriate, regis-
4 tered, pursuant to this section for the purposes of ORS chapter 110. Notwithstanding any other
5 provision of this chapter, an order of another state registered pursuant to ORS 110.405, 110.408 and
6 110.411 may not be modified unless the requirements of ORS 110.432 are met.

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8 **“RECORDS ON APPEAL FROM JUVENILE COURT JUDGMENTS**

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10 **“SECTION 12.** ORS 419A.200 is amended to read:

11 “419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not
12 limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose
13 rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom.
14 An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county
15 court must be taken to the circuit court.

16 “(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the
17 court, on motion made not later than 15 days after the entry of the court’s judgment, shall grant a
18 rehearing and shall direct that a record of the proceedings be kept. However, the court may not
19 grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth
20 or youth offender affected by such case. If a rehearing is held, the time for taking an appeal runs
21 from the date of entry of the court’s judgment after the rehearing.

22 “(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS
23 19.250, to be served:

24 “(A) On all parties who have appeared in the proceeding;

25 “(B) On the trial court administrator or other person serving as clerk of the juvenile court; and

26 “(C) On the juvenile court transcript coordinator, if a transcript is designated in connection
27 with the appeal.

28 “(b) The original of the notice with proof of service must be filed with:

29 “(A) The Court of Appeals if the appeal is from a circuit court; or

30 “(B) The circuit court if the appeal is from a county court.

31 “(c) The notice must be filed not later than 30 days after the entry of the court’s judgment. On
32 appeal from the county court, the circuit court shall hear the matter de novo and its judgment is
33 appealable to the Court of Appeals in the same manner as if the proceeding had been commenced
34 in the circuit court.

35 “(4) The counsel in the proceeding from which the appeal is being taken shall file and serve
36 those documents necessary to commence an appeal if the counsel is requested to do so by the party
37 the counsel represents. If the party requesting an appeal is represented by court-appointed counsel,
38 court-appointed counsel may discharge the duty to commence an appeal under this subsection by
39 complying with policies and procedures established by the office of public defense services for ap-
40 peals of juvenile court judgments.

41 “(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of
42 this section, the appellate court shall grant the person leave to file a notice of appeal after the time
43 limits described in subsection (3) of this section if:

44 “(A) The person shows a colorable claim of error in the proceeding from which the appeal is
45 taken; and

1 “(B) The person shows that the failure to file a timely notice of appeal is not personally attrib-
2 utable to the person.

3 “(b) A person other than the state is not entitled to relief under this subsection for failure to
4 file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

5 “(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection
6 (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and
7 must be accompanied by the notice of appeal sought to be filed. A request for leave under this
8 subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed
9 as provided in ORS 19.260.

10 “(d) The court may not grant relief under this subsection unless the state has notice and op-
11 portunity to respond to the person’s request for relief.

12 “(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal
13 under ORS chapter 19 except that:

14 “(a) The court shall advance the appeal on the court’s docket in the same manner as appeals in
15 criminal cases; and

16 “(b) The court’s scope of review is de novo on the record.

17 “(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate
18 court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor dis-
19 charge the ward or youth offender from the custody of the person, institution or agency in whose
20 custody the ward or youth offender may have been placed nor preclude the juvenile court after no-
21 tice and hearing from entering such further orders relating to the ward or youth offender’s custody
22 pending final disposition of the appeal as it finds necessary by reason only of matters transpiring
23 subsequent to the order or judgment appealed from. The trial court administrator shall immediately
24 file certified copies of any such order or judgment with the Court of Appeals.

25 “(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or
26 an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the
27 adjudication of a petition seeking termination of the parental rights of a parent of the ward who is
28 subject to the judgment from which the appeal is taken.

29 “(c) The appeal of any judgment entered in a termination of parental rights proceeding under
30 paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an
31 order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must
32 be conducted and advanced on the court’s docket in the same manner as termination of parental
33 rights cases.

34 “(8) On appeal of a judgment or final order, the appellate court may review any interlocutory
35 order that:

36 “(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

37 “(b) Was made after entry of the last appealable judgment or final order preceding entry of the
38 judgment or final order being appealed.

39 “(9) The district attorney or Attorney General shall represent the state in the appeal.

40 “(10)(a) **The court from which an appeal is taken shall prepare and transmit a record on**
41 **appeal in the manner provided in ORS 19.365, except that, when the appeal is to the circuit**
42 **court from a county court, the record on appeal shall be prepared and transmitted by the**
43 **county court to the circuit court.**

44 “(b) **The court to which an appeal is taken under this section shall keep a record of the**
45 **case on appeal that includes but is not limited to notices of appeal, briefs, motions, orders**

1 of the court and other papers filed with the court on appeal.

2 “(c) The record on appeal prepared and transmitted under paragraph (a) of this sub-
3 section, when it is in the custody of the court to which the appeal is taken, and the record
4 of the case on appeal kept under paragraph (b) of this subsection are subject to the same
5 limitations on inspection, copying and disclosure of records, reports and materials as those
6 set forth under ORS 419A.255 and 419A.257.

7 “(d) The court on appeal may consent to disclosure of:

8 “(A) Records described in paragraph (a) of this subsection, while in the custody of the
9 court to which the appeal is taken, in the same manner and under the same circumstances
10 as the juvenile court consents to disclosure under ORS 419A.255 and 419A.257; or

11 “(B) Records described in paragraph (b) of this subsection.

12 “(e) Notwithstanding any other provision of law, any decision, as that term is defined in
13 ORS 19.450, issued by the Court of Appeals or the Supreme Court, on appeal or review of a
14 juvenile court decision, is not confidential and is not exempt from disclosure.

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16 **“JUROR ELIGIBILITY**

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18 **“SECTION 13.** ORS 10.030, as amended by section 4, chapter 70, Oregon Laws 2007, and section
19 13, chapter 100, Oregon Laws 2007, is amended to read:

20 “10.030. (1) Except as otherwise specifically provided by statute, the opportunity for jury service
21 may not be denied or limited on the basis of race, religion, sex, sexual orientation, national origin,
22 age, income, occupation or any other factor that discriminates against a cognizable group in this
23 state.

24 “(2) Any person is eligible to act as a juror in a civil trial unless the person:

25 “(a) Is not a citizen of the United States;

26 “(b) Does not live in the county in which summoned for jury service;

27 “(c) Is less than 18 years of age; or

28 “(d) Has had rights and privileges withdrawn and not restored under ORS 137.281.

29 “(3)(a) Any person is eligible to act as a **grand juror, or as a juror** in a criminal trial, [*begin-*
30 *ning on or after December 5, 1996,*] unless the person:

31 “(A) Is not a citizen of the United States;

32 “(B) Does not live in the county in which summoned for jury service;

33 “(C) Is less than 18 years of age;

34 “(D) Has had rights and privileges withdrawn and not restored under ORS 137.281; [*or*]

35 “(E) Has been convicted of a felony or served a felony sentence within the [*prior*] 15 years **im-**
36 **mediately preceding the date the person is required to report for jury service; or**

37 **“(F) Has been convicted of a misdemeanor involving violence or dishonesty, or has served**
38 **a misdemeanor sentence based on a misdemeanor involving violence or dishonesty, within**
39 **the five years immediately preceding the date the person is required to report for jury ser-**
40 **vice.**

41 “(b) As used in this subsection:

42 “(A) ‘Felony sentence’ includes any incarceration, post-prison supervision, parole or probation
43 imposed upon conviction of a felony or served as a result of conviction of a felony.

44 “(B) ‘Has been convicted of a felony’ has the meaning given that term in ORS 166.270.

45 “(C) ‘Misdemeanor sentence’ includes any incarceration or probation imposed upon con-

1 **viction of a misdemeanor or served as a result of conviction of a misdemeanor.**

2 “(4) A person who is blind, hard of hearing or speech impaired or who has a physical disability
3 is not ineligible to act as a juror and may not be excluded from a jury list or jury service on the
4 basis of blindness, hearing or speech impairment or physical disability alone.

5 “(5) A person is ineligible to act as a juror in any circuit court of this state within 24 months
6 after being discharged from jury service in a federal court in this state or circuit court of this state
7 unless that person’s service as a juror is required because of a need for additional jurors.

8 “[6] *In addition to the disqualifications listed in subsection (2) of this section, a person is ineligible*
9 *to act as a juror on a grand jury if the person has been convicted of a felony, other than a felony traffic*
10 *offense, or has served a felony sentence, other than a sentence for a felony traffic offense, within the*
11 *prior 15 years. As used in this subsection, ‘conviction’ means an adjudication of guilt upon a verdict*
12 *or finding entered in a criminal proceeding in a court of competent jurisdiction.].”*

13 In line 20, delete “10” and insert “14”.

14 In line 23, delete “11” and insert “15”.

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