

# Senate Bill 270

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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 **as introduced**.

Authorizes Chief Justice of Supreme Court to establish procedures for closing courts in emergencies and establish standards for determining when courts are closed for purposes of rules and laws.

Authorizes presiding judge of judicial district to delegate exercise of administrative powers to another judge or to trial court administrator.

Modifies provisions relating to imposition and collection of certain court fees.

Provides that supplemental judgment may contain only provisions that were not included in general judgment. Makes other changes in laws relating to judgments.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to courts; creating new provisions; amending ORS 1.002, 1.171, 1.202, 18.005, 18.775, 21.125,  
3 21.682, 135.705 and 135.707; and declaring an emergency.

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

## COURT CLOSURES

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6  
7  
8 **SECTION 1.** ORS 1.002 is amended to read:

9 1.002. (1) The Supreme Court is the highest judicial tribunal of the judicial department of gov-  
10 ernment in this state. The Chief Justice of the Supreme Court is the presiding judge of the court  
11 and the administrative head of the judicial department of government in this state. The Chief Justice  
12 shall exercise administrative authority and supervision over the courts of this state consistent with  
13 applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate  
14 exercise of that administrative authority and supervision, may:

15 (a) Make rules and issue orders appropriate to that exercise.

16 (b) Require appropriate reports from the judges, other officers and employees of the courts of  
17 this state and municipal courts.

18 (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or  
19 reassign on a temporary basis all judges of the courts of this state to serve in designated locations  
20 within or without the county or judicial district for which the judge was elected.

21 (d) Set staffing levels for all courts of the state operating under the Judicial Department and for  
22 all operations in the Judicial Department.

23 (e) Establish time standards for disposition of cases.

24 (f) Establish budgets for the Judicial Department and all courts operating under the Judicial  
25 Department.

26 (g) Assign or reassign all court staff of courts operating under the Judicial Department.

**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 (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish  
 2 personnel rules and policies for judges of courts operating under the Judicial Department.

3 (i) **Establish procedures for closing courts in emergencies.**

4 (j) **Establish standards for determining when courts are closed for purposes of ORCP 10,  
 5 ORS 174.120 and other rules and laws that refer to periods of time when courts are closed.**

6 [(i)] (k) Take any other action appropriate to the exercise of the powers specified in this section  
 7 and other law, and appropriate to the exercise of administrative authority and supervision by the  
 8 Chief Justice over the courts of this state.

9 (2) The Chief Justice may make rules for the use of electronic applications in the courts, in-  
 10 cluding but not limited to rules relating to:

11 (a) Applications based on the use of the Internet and other similar technologies;

12 (b) The use of an electronic document, or use of an electronic image of a paper document in lieu  
 13 of the original paper copy, for a document, process or paper that is served, delivered, received, filed,  
 14 entered or retained in any action or proceeding;

15 (c) The use of electronic signatures or another form of identification for any document, process  
 16 or paper that is served, delivered, received, filed, entered or retained in any action or proceeding  
 17 and that is required by any law or rule to be signed;

18 (d) The use of electronic transmission for the service of documents in a proceeding, other than  
 19 service of a summons or service of an initial complaint or petition;

20 (e) Payment of statutory or court-ordered monetary obligations through electronic media;

21 (f) Electronic storage of court documents;

22 (g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770,  
 23 including use of electronic citations for parking ordinance violations that are subject to ORS 221.333  
 24 or 810.425;

25 (h) Public access through electronic means to court documents that are required or authorized  
 26 to be made available to the public by law; and

27 (i) Transmission of open court proceedings through electronic media.

28 (3) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent  
 29 with the laws governing courts and court procedures, but any person who serves, delivers, receives,  
 30 files, enters or retains an electronic document, or an electronic image of a paper document in lieu  
 31 of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection  
 32 (2) of this section shall be considered to have complied with any rule or law governing service, de-  
 33 livery, reception, filing, entry or retention of a paper document.

34 (4) Rules made and orders issued by the Chief Justice under this section shall permit as much  
 35 variation and flexibility in the administration of the courts of this state as are appropriate to the  
 36 most efficient manner of administering each court, considering the particular needs and circum-  
 37 stances of the court, and consistent with the sound and efficient administration of the judicial de-  
 38 partment of government in this state.

39 (5) The judges, other officers and employees of the courts of this state shall comply with rules  
 40 made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge  
 41 thereof, relating to the conduct of the business of the court shall be consistent with applicable rules  
 42 made and orders issued by the Chief Justice.

43 (6) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of  
 44 this state are the administrative heads of their respective courts. They are responsible and ac-  
 45 countable to the Chief Justice of the Supreme Court in the exercise of their administrative authority

1 and supervision over their respective courts. Other judges of the Court of Appeals or court under  
 2 a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the  
 3 Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of admin-  
 4 istrative authority and supervision.

5 (7) The Chief Justice may delegate the exercise of any of the powers specified by this section  
 6 to the presiding judge of a court, and may delegate the exercise of any of the administrative powers  
 7 specified by this section to the State Court Administrator, as may be appropriate.

8 (8) This section applies to justices of the peace and the justice courts of this state solely for the  
 9 purpose of disciplining of justices of the peace and for the purpose of continuing legal education of  
 10 justices of the peace.

11  
 12 **DELEGATION OF PRESIDING JUDGE POWERS**

13  
 14 **SECTION 2.** ORS 1.171 is amended to read:

15 1.171. (1) A presiding judge appointed under ORS 1.003 is presiding judge for the circuit court  
 16 of a judicial district established under ORS 3.012.

17 (2) The presiding judge, to facilitate exercise of administrative authority and supervision over  
 18 the circuit court of the district and consistent with applicable provisions of law and the Oregon  
 19 Rules of Civil Procedure, may:

20 (a) Apportion and otherwise regulate the disposition of the judicial business of the circuit court  
 21 of the judicial district; and

22 (b) Make rules, issue orders and take other action appropriate to that exercise.

23 (3) The presiding judge may assign actions and proceedings pending before a court to other  
 24 judges of the judicial district for hearing and disposition. A judge who is assigned an action or  
 25 proceeding under this subsection shall hear and dispose of the assigned action or proceeding unless  
 26 the presiding judge withdraws the assignment for good cause shown.

27 **(4) The presiding judge may delegate the exercise of any of the administrative powers of**  
 28 **the presiding judge to another judge of the court or to the trial court administrator for the**  
 29 **judicial district.**

30  
 31 **COURT FEES**

32  
 33 **SECTION 3.** ORS 1.202 is amended to read:

34 1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments  
 35 and divisions of the judicial branch of state government, shall add a fee of not less than \$50 and  
 36 not more than \$100 to any judgment that includes a monetary obligation that the court or judicial  
 37 branch is charged with collecting. The fee shall be added to cover the cost of establishing and ad-  
 38 ministering an account for the debtor and shall be added without further notice to the debtor or  
 39 further order of the court. The fee shall be added only if the court gives the defendant a period of  
 40 time in which to pay the obligation after the financial obligation is imposed. Fees under this sub-  
 41 section shall be deposited in the General Fund.

42 (2) All circuit courts and appellate courts of this state, and all commissions, departments and  
 43 divisions of the judicial branch of state government, that use the Department of Revenue or private  
 44 collection agencies shall add a fee to any judgment referred for collection that includes a monetary  
 45 obligation that the state court or the commission, department or division is charged with collecting.

1 The fee shall be added to cover the costs of [*collection charged by*] **collecting judgments referred**  
 2 **to** the Department of Revenue or private collection agency and shall be added to the monetary ob-  
 3 ligation without further notice to the debtor or further order of the court. The fee may not exceed  
 4 the actual costs of [*collection charged by the Department of Revenue or private collection agency*]  
 5 **collecting the judgment**. Fees under this subsection shall be deposited in the Judicial Department  
 6 Collections Account established under ORS 1.204 and may be used only for the purposes specified  
 7 in ORS 1.204.

8 (3) **The Chief Justice of the Supreme Court may authorize courts to waive or suspend the**  
 9 **fees required to be added to judgments under this section. Except to the extent authorized**  
 10 **by the Chief Justice**, a court may not waive or suspend the fees required to be added to judgments  
 11 under [*the provisions of*] this section.

12 **SECTION 4.** ORS 21.125 is amended to read:

13 21.125. (1) In any action, suit or proceeding subject to a fee under ORS 21.110, or in any civil  
 14 appeal or petition subject to a fee under ORS 21.010, the Chief Justice of the Supreme Court may  
 15 require that a \$50 fee be paid at the time of filing a motion identified by the Chief Justice as being  
 16 subject to a fee under this section. If the Chief Justice has identified a motion as being subject to  
 17 a fee under this section, the responding party must file a fee of \$35 upon the filing of a response to  
 18 the motion. The Chief Justice by order shall identify motions that are subject to fees under this  
 19 section.

20 (2) The fees provided for in this section may not be collected from the state, a county, a city  
 21 or a school district.

22 (3) The fees provided for in this section may not be collected for motions for judgment by vol-  
 23 untary dismissal under ORCP 54 A(1), for motions for judgment by written stipulation under ORCP  
 24 67 F or for motions for entry of default judgment under ORCP 69 B(1).

25 (4) The fees provided for in this section may not be collected for motions made to an arbitrator  
 26 or mediator in an arbitration or mediation required or offered by a court, or to any motion relating  
 27 to an arbitration or mediation required or offered by a court.

28 (5) **The clerk shall file a motion or response that is subject to a fee under this section**  
 29 **only if the fee required by this section is paid when the motion or response is submitted for**  
 30 **filing.**

31 **SECTION 5.** ORS 21.682 is amended to read:

32 21.682. (1) A judge may waive or defer all or part of the fees and court costs payable to the  
 33 court by a party in a civil action or proceeding, **including sheriff's fees under ORS 21.410**, if the  
 34 judge finds that the party is unable to pay all or any part of the fees and costs. Waiver or deferral  
 35 under this section of the fees or court costs of an inmate, as defined in ORS 30.642, is subject to  
 36 ORS 30.642 to 30.650.

37 (2) A presiding judge may delegate authority to waive or defer fees and court costs under this  
 38 section to the court administrator for the court in which the judge serves. A delegation of authority  
 39 under this subsection must be in writing and must be subject to clear standards. If a delegation is  
 40 made under this subsection, an applicant may seek review of the court administrator's decision by  
 41 a judge. If an applicant requests review of a court administrator's decision, the court administrator  
 42 shall forward the application for waiver or deferral of the fees or court costs to the appropriate  
 43 judge.

44 (3) A court may not delay or refuse to enter an order or judgment in an action or proceeding  
 45 because deferred fees and court costs have not been paid.

1 (4) The Chief Justice of the Supreme Court by order may provide standards and practices for  
2 waiver or deferral of fees or court costs under ORS 21.680 to 21.698.

3  
4 **JUDGMENTS GENERALLY**

5  
6 **SECTION 6.** ORS 18.005 is amended to read:

7 18.005. As used in this chapter:

8 (1) "Action" means any proceeding commenced in a court in which the court may render a  
9 judgment.

10 (2) "Child support award" means a money award or agency order that requires the payment of  
11 child support and that is entered under ORS 108.010 to 108.550, 416.310 to 416.340, 416.400 to  
12 416.465, 416.510 to 416.990, 419B.400 or 419C.590 or ORS chapter 25, 107, 109 or 110.

13 (3) "Civil action" means any action that is not a criminal action.

14 (4) "Court administrator" means a trial court administrator in a circuit court that has a trial  
15 court administrator and the clerk of the court in all other courts.

16 (5) "Criminal action" has the meaning given in ORS 131.005.

17 (6) "Execution" means enforcement of the money award portion of a judgment or enforcement  
18 of a judgment requiring delivery of the possession or sale of specific real or personal property, by  
19 means of writs of execution, writs of garnishment and other statutory or common law writs or  
20 remedies that may be available under the law.

21 (7) "General judgment" means the judgment entered by a court that decides all requests for re-  
22 lief in the action except:

23 (a) A request for relief previously decided by a limited judgment; and

24 (b) A request for relief that may be decided by a supplemental judgment.

25 (8) "Judgment" means the concluding decision of a court on one or more requests for relief in  
26 one or more actions, as reflected in a judgment document.

27 (9) "Judgment document" means a writing in the form provided by ORS 18.038 that incorporates  
28 a court's judgment.

29 (10) "Judgment lien" means:

30 (a) The effect of a judgment on real property as described in ORS 18.150 (2) and (3) for the  
31 county in which the judgment is entered, and as described in ORS 18.152 (2) and (3) for a county in  
32 which the judgment is recorded under ORS 18.152; and

33 (b) A support arrearage lien attaching to real property under ORS 18.150 (3) or 18.152 (3).

34 (11) "Judgment remedy" means:

35 (a) The ability of a judgment creditor to enforce a judgment through execution; and

36 (b) Any judgment lien arising under ORS 18.150 or 18.152.

37 (12) "Legal authority" means:

38 (a) A statute;

39 (b) An Oregon Rule of Civil Procedure;

40 (c) A rule or order of the Chief Justice of the Supreme Court adopted under ORS 18.028; and

41 (d) All controlling appellate court decisions in effect December 31, 2003.

42 (13) "Limited judgment" means:

43 (a) A judgment entered under ORCP 67 B or 67 G;

44 (b) A judgment entered before the conclusion of an action in a circuit court for the partition  
45 of real property, defining the rights of the parties to the action and directing sale or partition;

1 (c) An interlocutory judgment foreclosing an interest in real property; and

2 (d) A judgment rendered before entry of a general judgment in an action that disposes of at least  
 3 one but fewer than all requests for relief in the action and that is rendered pursuant to a legal au-  
 4 thority that specifically authorizes that disposition by limited judgment.

5 (14) “Money award” means a judgment or portion of a judgment that requires the payment of  
 6 money.

7 (15) “Person” includes a public body as defined in ORS 174.109.

8 (16) “Request for relief” means a claim, a charge in a criminal action or any other request for  
 9 a determination of the rights and liabilities of one or more parties in an action that a legal authority  
 10 allows the court to decide by a judgment.

11 (17) “Supplemental judgment” means a judgment that:

12 (a) **Pursuant to a legal authority** may be rendered after a general judgment [*pursuant to a*  
 13 *legal authority*]; **and**

14 (b) **Contains only provisions that were not included in the general judgment.**

15 (18) “Support arrearage lien” means a lien that attaches to real property under the provisions  
 16 of ORS 18.150 (3) or 18.152 (3).

17 (19) “Support award” means a money award or agency order that requires the payment of child  
 18 or spousal support.

19 **SECTION 7.** ORS 18.775 is amended to read:

20 18.775. (1) If a garnishee fails to file a garnishee response within the time required by law, or  
 21 fails to deliver all garnishable property required to be delivered under the writ of garnishment  
 22 within the time required by law, the garnishee is liable to the creditor in an amount equal to the  
 23 lesser of:

24 (a) The amount required to satisfy the garnishment; or

25 (b) The value of the debtor’s garnishable property held by the garnishee at the time the writ is  
 26 delivered to the garnishee.

27 (2) A judgment may be entered against the garnishee for the amounts specified in this section  
 28 if, after a hearing, the court finds that:

29 (a) The garnishee at the time of the delivery of the writ of garnishment held garnishable prop-  
 30 erty of the debtor beyond the amount reported in the garnishee response;

31 (b) The garnishee held any garnishable property of the debtor and the garnishee failed to make  
 32 a response; or

33 (c) The garnishee failed to deliver garnishable property required to be delivered under the writ.

34 (3) **A supplemental judgment shall be entered under subsection (2) of this section if the**  
 35 **garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general judgment has**  
 36 **been entered in the action. A limited judgment shall be entered under subsection (2) of this**  
 37 **section if the garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general**  
 38 **judgment has not been entered in the action. A limited or general judgment shall be entered**  
 39 **under subsection (2) of this section if the garnishment was issued for a debt described in ORS**  
 40 **18.605 (1)(b), (c) or (d).**

41 [(3)] (4) **If a garnishee is liable to a creditor under subsections (1) and (2) of this section,**  
 42 **the creditor may also recover costs of the creditor as determined under ORCP 68. If the garnishee**  
 43 **fails to file a garnishee response within the time required by law, the costs of the creditor may be**  
 44 **recovered from the garnishee even if it is determined that the garnishee held no garnishable prop-**  
 45 **erty of the debtor at the time the writ was delivered to the garnishee.**

