

# A-Engrossed House Bill 2691

Ordered by the House April 27  
Including House Amendments dated April 27

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Judiciary 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.

*[Repeals provision requiring that court be held in Pendleton, Hermiston, Milton-Freewater and Heppner in sixth judicial district.]*

*[Authorizes presiding judge for judicial district with more than one place where court regularly sits to consolidate court administrative functions for specified purposes, subject to approval of Chief Justice.]*

Streamlines consolidation of probation violation proceedings.

Allows Chief Justice to designate any circuit court judge to serve as acting presiding judge.

Allows Chief Justice to establish reasonable subscription fees, and other user and transaction fees, for remote access to case information, and other Judicial Department forms, reports and services, that are available in electronic form.

*[Allows Chief Justice to establish consolidated judicial administrative districts composed of two or more judicial districts.]*

**Provides for mandatory participation in appellate mediation program and imposition of fees by Court of Appeals for mediator's services.**

**Authorizes offsetting debt imposed by state courts with amounts owed to debtor by state or federal agency or state or federal tax refunds.**

**Authorizes, under specified circumstances, judge pro tempore to issue warrant of arrest or search warrant.**

**Makes certain other changes to statutes related to judicial administration.**

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to courts; creating new provisions; amending ORS 1.002, 1.003, 1.195, 1.196, 1.197, 1.198, 1.810, 1.830, 2.560, 3.014, 8.420, 8.435, 8.445, 8.455, 107.095, 133.120, 133.545, 137.547 and 293.250; and declaring an emergency.

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

### CONSOLIDATION OF PROBATION VIOLATION PROCEEDINGS

**SECTION 1.** ORS 137.547 is amended to read:

137.547. *[(1)]* Notwithstanding any other provision of law, the Chief Justice of the Supreme Court may make rules or issue orders under ORS 1.002 to establish procedures for the consolidation of probation violation proceedings pending against a probationer in multiple circuit courts.

*[(2) Rules made or orders issued under this section:]*

*[(a) Shall provide that if a probationer is alleged to have violated the conditions of a sentence of probation in more than one court, an initiating court may consider consolidation of some or all pending probation violation proceedings before one or more appropriate courts:]*

*[(A) Upon the motion of the district attorney or the defense counsel in the county in which the*

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 *probationer is in custody or otherwise before the court; or]*

2 *[(B) Upon the court's own motion.]*

3 *[(b) May determine which courts are appropriate courts for the consolidation of probation violation*  
4 *proceedings in described circumstances or establish a process for determining an appropriate court.]*

5 *[(c) Shall require the consent of the probationer to a consolidated probation violation proceeding*  
6 *and written waivers by the probationer as determined necessary or fair.]*

7 *[(d) Shall require the approval of the judge of any responding court, the initiating court and any*  
8 *appropriate court being considered for a consolidated probation violation proceeding.]*

9 *[(e) Shall require the approval of the district attorney of the county for any responding court, the*  
10 *initiating court and any court being considered as an appropriate court.]*

11 *[(f) May provide for the recall of warrants in any court other than the appropriate court as con-*  
12 *venient to accomplish the purposes of this section.]*

13 *[(g) May provide for the transmission of copies of such papers, records or other information to or*  
14 *from courts, district attorneys and parole and probation officers as is necessary, appropriate or con-*  
15 *venient for a consolidated probation violation proceeding under this section.]*

16 *[(h) May provide any processes necessary, appropriate or convenient for the proceeding before the*  
17 *appropriate court and for the appropriate court to make a disposition of the cases that are consolidated*  
18 *in a proceeding under this section.]*

19 *[(i) May include any rules or orders establishing other procedures necessary, appropriate or con-*  
20 *venient for the fair and expeditious resolution of consolidated probation violation proceedings under*  
21 *this section.]*

22 *[(3) When an appropriate court transmits the judgment it enters for a consolidated probation vio-*  
23 *lation proceeding under this section to the initiating court, if different from the appropriate court, and*  
24 *to a responding court for filing, thereafter that judgment is for all purposes the same as a judgment*  
25 *of the court of the initiating or responding county with regard to the matters on which that judgment*  
26 *makes determination and disposition.]*

27 *[(4) As used in this section:]*

28 *[(a) "Appropriate court" means the court most appropriate to hold a consolidated probation vio-*  
29 *lation proceeding under this section given the totality of the circumstances involving the alleged pro-*  
30 *bation violations and multiple jurisdiction proceedings. The circumstances include, but are not limited*  
31 *to:]*

32 *[(A) The location, residence or work location of the probationer;]*

33 *[(B) The location of the probationer's parole and probation officer;]*

34 *[(C) The location of any witnesses or victims of the alleged violations or of any alleged new offenses*  
35 *with which the probationer is charged;]*

36 *[(D) The location of any victims of the offense for which the probationer was sentenced to pro-*  
37 *bation;]*

38 *[(E) The nature and location of previous offenses for which the probationer is serving a sentence;]*

39 *[(F) The nature of any new offenses with which the probationer is charged;]*

40 *[(G) The resources of local jails;]*

41 *[(H) The nature and location of any services that may be appropriate as a consequence of the al-*  
42 *leged violation or new charges;]*

43 *[(I) Whether the judge who imposed the original sentence provided in the original judgment direc-*  
44 *tion to return any probation violation proceedings to that judge; and]*

45 *[(J) The interests of local courts and district attorneys concerning the probationer and any dispo-*

1 *sition that a court may impose concerning the probationer.]*

2 *[(b) "Initiating court" means the court in which a probationer is in custody or otherwise before the*  
3 *court.]*

4 *[(c) "Responding court" means a court other than an initiating court or appropriate court that en-*  
5 *tered a judgment under which the probationer is currently serving a sentence of probation and which*  
6 *court consents to the consolidation of probation violation proceedings in an appropriate court under*  
7 *this section.]*

8  
9 **INTERIM PRESIDING JUDGES**

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11 **SECTION 2.** ORS 1.003 is amended to read:

12 1.003. (1) The Chief Justice of the Supreme Court shall appoint after conferring with and seeking  
13 the advice of the Supreme Court, and may remove at pleasure:

14 (a) The Chief Judge of the Court of Appeals.

15 (b) The presiding judge for each judicial district.

16 (2) Except as provided in subsection (3) of this section, the term of office of the Chief Judge or  
17 presiding judge is two years, commencing on January 1 of each even-numbered year. A judge is el-  
18 igible for reappointment as Chief Judge or presiding judge.

19 (3) If there is a vacancy for any cause in the office of Chief Judge or presiding judge:

20 (a) When the vacancy occurs after January 1 of an even-numbered year and before July 1 of the  
21 following odd-numbered year, the Chief Justice shall make an appointment for a term expiring De-  
22 cember 31 of that odd-numbered year.

23 (b) When the vacancy occurs after June 30 of an odd-numbered year and before January 1 of the  
24 following even-numbered year, the Chief Justice shall make an appointment for a term expiring De-  
25 cember 31 of the odd-numbered year following that even-numbered year.

26 (c) The Chief Justice *[shall]* **may** designate a judge of the Court *[concerned]* **of Appeals to serve**  
27 **as acting Chief Judge** *[or acting presiding judge to serve]* until an appointment is made as provided  
28 in this section. **The Chief Justice may designate any circuit court judge to serve as acting**  
29 **presiding judge until an appointment is made as provided in this section.**

30 (4) Before appointing a Chief Judge or presiding judge the Chief Justice shall confer with and  
31 seek the advice of the judges of the courts concerned in respect to the appointment.

32 *[(5) The Chief Justice shall give written notice of the judge appointed as Chief Judge or presiding*  
33 *judge to each judge of the court concerned not later than 10 days before the effective date of the ap-*  
34 *pointment. A majority of the judges of the courts concerned may disapprove the appointment by a*  
35 *written resolution signed by each judge disapproving the appointment and submitted to the Chief Jus-*  
36 *tice before the effective date of the appointment. If the appointment is so disapproved, the Chief Justice*  
37 *shall appoint another judge as Chief Judge or presiding judge, and shall notify each judge of the courts*  
38 *concerned as provided in this subsection. If the courts concerned have five or more judges, a second*  
39 *appointment is subject to disapproval, as provided in this subsection, by a majority of the judges of the*  
40 *courts concerned. A third appointment is not subject to disapproval under this subsection.]*

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42 **PRIMA FACIE CASES IN DIVORCE PROCEEDINGS**

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44 **SECTION 3.** ORS 107.095 is amended to read:

45 107.095. (1) After the commencement of a suit for marital annulment, dissolution or separation

1 and until a general judgment therein, the court may provide as follows:

2 (a) That a party pay to the clerk of the court such amount of money as may be necessary to  
3 enable the other party to prosecute or defend the suit, including costs of expert witnesses, and also  
4 such amount of money to the Department of Justice, court clerk or court administrator, whichever  
5 is appropriate, as may be necessary to support and maintain the other party.

6 (b) For the care, custody, support and maintenance, by one party or jointly, of the minor chil-  
7 dren as described in ORS 107.105 (1)(a) and for the parenting time rights as described in ORS 107.105  
8 (1)(b) of the parent not having custody of such children.

9 (c) For the restraint of a party from molesting or interfering in any manner with the other party  
10 or the minor children.

11 (d) That if minor children reside in the family home and the court considers it necessary for  
12 their best interest to do so, the court may require either party to move out of the home for such  
13 period of time and under such conditions as the court may determine, whether the home is rented,  
14 owned or being purchased by one party or both parties.

15 (e) Restraining and enjoining either party or both from encumbering or disposing of any of the  
16 real or personal property of either or both of the parties, except as ordered by the court.

17 (f) For the temporary use, possession and control of the real or personal property of the parties  
18 or either of them and the payment of installment liens and encumbrances thereon.

19 (g) That even if no minor children reside in the family home, the court may require one party  
20 to move out of the home for such period of time and under such conditions as the court determines,  
21 whether the home is rented, owned or being purchased by one party or both parties if that party  
22 assaults or threatens to assault the other.

23 (2) A limited judgment under ORS chapter 18 may be entered in an action for dissolution or  
24 annulment of a marriage providing for a support award, as defined by ORS 18.005, or other money  
25 award, as defined by ORS 18.005. Notwithstanding ORS 19.255, a limited judgment entered under this  
26 subsection may not be appealed. Any decision of the court in a limited judgment subject to this  
27 subsection may be appealed as otherwise provided by law upon entry of a general judgment.

28 (3) The court shall not require an undertaking in case of the issuance of an order under sub-  
29 section (1)(c), (d), (e), (f) or (g) of this section.

30 (4) In a suit for annulment or dissolution of marriage or for separation, wherein the parties are  
31 copetitioners or the respondent is found by the court to be in default or the respondent having ap-  
32 peared has waived further appearance or the parties stipulate to the entry of a judgment, the court  
33 may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a  
34 judgment of annulment or dissolution or for separation based upon a current affidavit of the  
35 petitioner or copetitioners, setting forth a prima facie case, and covering such additional matters  
36 as the court may require. If [*child support or*] custody of minor children is involved, [*then*] the affi-  
37 davit **must** also [*shall*] include[:]

38 [*(a) The gross monthly income of each party, to the best of the affiant's knowledge; and*]

39 [*(b) the name of the party with whom the children currently reside and the length of time they*  
40 *have so resided.*

41 (5) When a court orders relief under subsection (1)(c) or (d) of this section, the court may in-  
42 clude in its order an expiration date for the order to allow entry of the order into the Law  
43 Enforcement Data System and the databases of the National Crime Information Center of the United  
44 States Department of Justice as provided in ORS 107.720. If the person being restrained was pro-  
45 vided notice and an opportunity to be heard, the court shall also include in the order, when appro-

1 priate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person's ability  
2 to possess firearms and ammunition or engage in activities involving firearms.

3  
4 **SHORTHAND REPORTERS**

5  
6 **SECTION 4.** ORS 8.420 is amended to read:

7 8.420. (1) The State Court Administrator shall verify the qualifications of shorthand reporters  
8 to be certified and shall issue the certificate of shorthand reporter to qualified applicants.

9 (2) The administrator shall adopt policies necessary to administer ORS 8.415 to 8.455 and may  
10 appoint any committees necessary to function in accordance with ORS 8.415 to 8.455.

11 (3) The administrator shall:

12 (a) Adopt policies establishing the qualifications necessary for the issuance of a certificate of  
13 certified shorthand reporter;

14 (b) Determine the qualifications of persons applying for certificates under ORS 8.415 to 8.455;

15 (c) Adopt policies for the examination of applicants and the issuing of certificates under ORS  
16 8.415 to 8.455;

17 (d) Grant certificates to qualified applicants upon compliance with ORS 8.415 to 8.455 and poli-  
18 cies of the administrator;

19 (e) Establish continuing education requirements for [*biennial*] renewal of certificates;

20 (f) Collect fees as set by the administrator;

21 (g) Require the [*biennial*] **regular** renewal of all certificates;

22 (h) Establish a code of conduct and grounds for disciplinary action; and

23 (i) Investigate complaints regarding court reporters.

24 (4) The Certified Shorthand Reporters Advisory Committee shall recommend:

25 (a) Standards establishing the qualifications necessary for the issuance of a certificate of certi-  
26 fied shorthand reporter;

27 (b) Qualifications required of persons applying for certificates under ORS 8.415 to 8.455;

28 (c) Procedures for the examination of applicants and the issuing of certificates under ORS 8.415  
29 to 8.455;

30 (d) Certificates be granted by the administrator to qualified applicants upon compliance with  
31 ORS 8.415 to 8.455 and policies of the administrator;

32 (e) Continuing education requirements for [*biennial*] renewal of certificates;

33 (f) A code of conduct and grounds for suspension or revocation of certificates or other discipli-  
34 nary action to the administrator;

35 (g) Investigation of complaints regarding court reporters at the direction of the administrator;  
36 and

37 (h) Any corrective action that may be required.

38 **SECTION 5.** ORS 8.435 is amended to read:

39 8.435. (1) The certificate of certified shorthand reporter shall be granted to any person who  
40 meets the requirements of ORS 8.415 to 8.455 and policies of the State Court Administrator.

41 (2) Any person who has received from the administrator a certificate of "certified shorthand  
42 reporter" shall be styled and known as a "certified shorthand reporter" and may also use the ab-  
43 breviation of "C.S.R."

44 (3) A certificate shall be renewed [*biennially*] **regularly** as provided by policies of the adminis-  
45 trator.

1 (4) Certificates issued by the administrator may be renewed *[biennially]* upon payment of the fee  
2 established under ORS 8.445, completion of established continuing education requirements and com-  
3 pliance with the code of conduct policy as established by the administrator.

4 (5) A person may not assume or use the title or designation “certified shorthand reporter” or  
5 the abbreviation “C.S.R.” or any other title, designation, words, letters, abbreviation, sign or device  
6 tending to indicate that the person is a certified shorthand reporter unless the person has received  
7 a certificate as a certified shorthand reporter under ORS 8.415 to 8.455 and policies of the admin-  
8 istrator that is not revoked, suspended or lapsed.

9 **SECTION 6.** ORS 8.445 is amended to read:

10 8.445. *[(1) The State Court Administrator shall establish a fee schedule for fees authorized by ORS*  
11 *8.415 to 8.455, as follows:]*

12 *[(a) Not to exceed \$100 for initial registration.]*

13 *[(b) Not to exceed \$100 for biennial renewal.]*

14 *[(c) Not to exceed \$100 for the examination.]*

15 **(1) The State Court Administrator shall establish and collect reasonable fees for appli-**  
16 **cations, examinations, certifications and renewals of certification authorized by ORS 8.415**  
17 **to 8.455.**

18 (2) Fees **collected under this section** are nonrefundable.

19 (3) *[Subject to a report to the Emergency Board prior to adopting the fees and charges,] The fees*  
20 *[and charges] established under this section [shall] may not exceed the cost of administering and*  
21 *enforcing ORS 8.415 to 8.455[, consistent with the budget authorized by the Legislative Assembly, as*  
22 *that budget may be modified by the Emergency Board].*

23 **SECTION 7.** ORS 8.455 is amended to read:

24 8.455. (1) There is created a Certified Shorthand Reporters Advisory Committee consisting of  
25 seven members appointed by the State Court Administrator as follows:

26 (a) Four members of the advisory committee shall be persons skilled in the practice of shorthand  
27 reporting and shall have been engaged continuously in the practice of shorthand reporting for a  
28 period of not less than five years prior to the date of appointment as a member of the advisory  
29 committee. Appointees shall be certified under ORS 8.415 to 8.455. *[Of the shorthand reporter mem-*  
30 *bers, two shall be official reporters and two shall be free-lance reporters;]*

31 (b) Two members of the advisory committee shall be members of the Oregon State Bar. *[: and]*

32 (c) One member of the advisory committee shall be a public member and not be a **shorthand**  
33 reporter or a member of the Oregon State Bar or related thereto. The public member is entitled to  
34 compensation and expenses as provided in ORS 292.495.

35 (2) The term of a member of the advisory committee shall be three years. A member is eligible  
36 for reappointment to the advisory committee. Vacancies occurring shall be filled by appointment for  
37 the unexpired term.

38 (3) The advisory committee shall organize by the election of one of its members as president and  
39 one as secretary.

40 (4) A majority of the advisory committee shall constitute a quorum for all purposes.

41  
42 **FEEES FOR ELECTRONIC ACCESS TO**  
43 **JUDICIAL DEPARTMENT MATERIALS AND SERVICES**  
44

45 **SECTION 8.** ORS 1.002 is amended to read:

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

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

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

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

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

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

16 (f) Establish budgets for the Judicial Department and all courts operating under the Judicial  
17 Department.

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

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

21 (i) Establish procedures for closing courts in emergencies.

22 (j) Establish standards for determining when courts are closed for purposes of ORCP 10, ORS  
23 174.120 and other rules and laws that refer to periods of time when courts are closed.

24 (k) Take any other action appropriate to the exercise of the powers specified in this section and  
25 other law, and appropriate to the exercise of administrative authority and supervision by the Chief  
26 Justice over the courts of this state.

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

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

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

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

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

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

39 (f) Electronic storage of court documents;

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

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

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

1 (3) The Chief Justice may make rules relating to the data that state courts may require parties  
2 and other persons to submit for the purpose of distinguishing particular persons from other persons.  
3 If the rules require the submission of data that state or federal law does not require that the courts  
4 make public, the rules may also require courts to keep the data confidential and not release the data  
5 except pursuant to a court order issued for good cause shown. Data that is made confidential under  
6 the rules is not subject to disclosure under ORS 192.410 to 192.505.

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

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

18 *[(6) The Chief Justice may establish fees for the use of the Oregon Judicial Information*  
19 *Network.]*

20 **(6) The Chief Justice may establish reasonable subscription fees, and other user and**  
21 **transaction fees, for remote access to case information, and other Judicial Department**  
22 **forms, reports and services, that are available in electronic form.**

23 (7) The judges, other officers and employees of the courts of this state shall comply with rules  
24 made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge  
25 thereof, relating to the conduct of the business of the court shall be consistent with applicable rules  
26 made and orders issued by the Chief Justice.

27 (8) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of  
28 this state are the administrative heads of their respective courts. They are responsible and ac-  
29 countable to the Chief Justice of the Supreme Court in the exercise of their administrative authority  
30 and supervision over their respective courts. Other judges of the Court of Appeals or court under  
31 a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the  
32 Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of admin-  
33 istrative authority and supervision.

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

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

40  
41 **JUDICIAL CONFERENCE**  
42 **OF THE STATE OF OREGON**  
43

44 **SECTION 9.** ORS 1.810 is amended to read:

45 1.810. There hereby is created and established a Judicial Conference of the State of Oregon. The



1 conference shall consist of all the judges of the Supreme Court, the Court of Appeals, the Oregon  
2 Tax Court and the circuit courts and all senior judges certified under ORS 1.300. The Chief Justice  
3 shall be chairperson of the conference and shall have power to invite any persons not members of  
4 the conference to attend the meetings of the conference and consult with it in the performance of  
5 its duties. The State Court Administrator shall act as executive secretary of the conference. *[Each*  
6 *member of the conference, the State Court Administrator, and each person invited by the Chief Justice,*  
7 *is entitled to reimbursement for hotel bills and traveling expenses necessarily incurred in the perform-*  
8 *ance of duties relating to the Judicial Conference of the State of Oregon.]*

9 **SECTION 10.** ORS 1.830 is amended to read:

10 1.830. The **Judicial Conference of the State of Oregon** shall meet *[at such time as shall be*  
11 *designated by its chairperson, not less than once]* annually **or at such other times as the Chief**  
12 **Justice of the Supreme Court directs.**

### 13 **APPELLATE MEDIATION PROGRAM**

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16 **SECTION 11.** ORS 2.560 is amended to read:

17 2.560. (1) The Court of Appeals shall sit primarily in Salem, but also may sit in other locations  
18 designated under ORS 1.085 (2).

19 (2) The Court of Appeals may make and enforce all rules necessary for the prompt and orderly  
20 dispatch of the business of the court, and the remanding of causes to the lower courts, and not in-  
21 consistent with applicable rules made or orders issued by the Chief Justice of the Supreme Court  
22 or the Chief Judge of the Court of Appeals.

23 (3) The Court of Appeals shall establish an appellate mediation program and make and enforce  
24 all rules necessary for the prompt and orderly dispatch of the business of the program, **including**  
25 **rules requiring mandatory participation in mediation and the payment of reasonable fees by**  
26 **the parties for the mediator's services.** *[The parties to the appeal shall pay the fees of a mediator*  
27 *providing services under the program, unless those fees are waived or deferred by the Court of*  
28 *Appeals.] Fees imposed under this subsection must be paid directly to the mediator by the*  
29 **parties, unless the rules require that the fees be deposited in the Appellate Mediation Pro-**  
30 **gram Revolving Account established under ORS 2.565. The rules shall provide for waiver or**  
31 **deferral of fees under this subsection.**

### 32 **ACCOUNT COLLECTION**

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34  
35 **SECTION 12.** Section 13 of this 2011 Act is added to and made a part of ORS 1.194 to 1.200.

36 **SECTION 13.** If a person is a debtor under a judgment for a debt that results from one  
37 or more unpaid financial obligations imposed by state courts, and the person has entered into  
38 an agreement to pay the debt that clearly states that state and federal tax refunds and other  
39 amounts owing to the person from a state or federal agency may be applied against the debt  
40 even if the person is current on payments under the agreement:

41 (1) State and federal tax refunds may be offset against the debt under ORS 293.250, or  
42 pursuant to an intergovernmental agreement entered into under ORS 1.196; and

43 (2) Any amount owing to a debtor from a state or federal agency may be offset against  
44 the debt under ORS 293.250.

45 **SECTION 14.** ORS 1.195 is amended to read:

1 1.195. (1) Not later than October 1 of each fiscal year, all state courts and all commissions, de-  
 2 partments and divisions in the judicial branch of state government shall submit reports to the Leg-  
 3 islative Fiscal Office that describe the status of the liquidated [*and delinquent*] accounts of the  
 4 judicial branch of state government, and the efforts made to collect those liquidated [*and*  
 5 *delinquent*] accounts during the immediately preceding fiscal year. The reports required under this  
 6 subsection shall be in a form prescribed by the Legislative Fiscal Office and shall include but not  
 7 be limited to:

8 (a) The total number of all liquidated [*and delinquent*] accounts, and the balance for those ac-  
 9 counts, at the beginning of the fiscal year;

10 (b) The total number of all liquidated [*and delinquent*] accounts, and the balance for those ac-  
 11 counts, at the end of the fiscal year;

12 (c) The liquidated [*and delinquent*] accounts that have been added during the immediately pre-  
 13 ceding fiscal year;

14 (d) The total amount collected on liquidated [*and delinquent*] accounts during the immediately  
 15 preceding fiscal year;

16 (e) The total amount and total number of liquidated [*and delinquent*] accounts that have been  
 17 written off during the immediately preceding fiscal year;

18 (f) The total amount and total number of liquidated [*and delinquent*] accounts that have been  
 19 assigned for collection, and the collection efforts made for those accounts, during the immediately  
 20 preceding fiscal year;

21 (g) The total amount and total number of liquidated [*and delinquent*] accounts that have been  
 22 turned over to private collection agencies under ORS 1.197 and the total amount that has been  
 23 collected by those agencies during the immediately preceding fiscal year;

24 (h) The total amount and total number of accounts that have ceased to be liquidated [*and de-*  
 25 *linquent*] during the fiscal year for reasons other than having been collected or written off;

26 (i) The total number and total amount of all liquidated [*and delinquent*] accounts that have been  
 27 exempted under ORS 1.199; and

28 (j) Any other information necessary to inform the Legislative Fiscal Office of the status of the  
 29 liquidated [*and delinquent*] accounts of the judicial branch of state government.

30 (2) The Legislative Fiscal Office shall produce an annual report, not later than December 31 of  
 31 each fiscal year, on the status of the liquidated [*and delinquent*] accounts of the judicial branch of  
 32 state government. The annual report shall be based on the reports submitted under subsection (1)  
 33 of this section.

34 (3) The reports required under subsection (1) of this section may be made by the State Court  
 35 Administrator on behalf of some or all of the state courts and on behalf of some or all of the com-  
 36 missions, departments and divisions in the judicial branch of state government.

37 **SECTION 15.** ORS 1.196 is amended to read:

38 1.196. **Notwithstanding ORS 293.250**, the State Court Administrator may enter into an inter-  
 39 governmental agreement with the United States Financial Management Service and the Internal  
 40 Revenue Service for the purpose of the reciprocal offsetting of the following amounts:

41 (1) Federal tax refunds of debtors, to be offset against liquidated [*and delinquent*] accounts of  
 42 those debtors resulting from **one or more** unpaid financial obligations imposed by state courts; and

43 (2) Overpayments to state courts, to be offset against federal tax obligations.

44 **SECTION 16.** ORS 1.197 is amended to read:

45 1.197. (1) Except as otherwise provided by law, all state courts and all commissions, departments

1 and divisions in the judicial branch of state government shall offer to assign the liquidated [*and*  
2 *delinquent*] accounts of the state court, commission, department or division to a private collection  
3 agency, or to the Department of Revenue under the provisions of ORS 293.250, not later than:

4 (a) One year from the date the account was liquidated if no payment has been received on the  
5 account within that year; or

6 (b) One year from the date of receipt of the most recent payment on the account.

7 (2) Nothing in subsection (1) of this section prohibits a state court or a commission, department  
8 or division in the judicial branch of state government from assigning a liquidated [*and delinquent*]  
9 account to a private collection agency at any time within the one-year period, or from assigning a  
10 liquidated [*and delinquent*] account to the Department of Revenue during the one-year period, if that  
11 assignment is otherwise allowed by law.

12 (3) Nothing in this section prevents a state court or a commission, department or division in the  
13 judicial branch of state government from assigning an account to the Department of Revenue for the  
14 purpose of seeking an offset against **state or federal** tax refunds or other amounts due the debtor  
15 at the time the account is assigned to a private collection agency. A state court and any commis-  
16 sion, department or division in the judicial branch of state government that assigns the same ac-  
17 count to both the Department of Revenue and a private collection agency shall ensure that both the  
18 Department of Revenue and the private collection agency are kept informed of the status of all  
19 collections made on the account.

20 (4) If a private collection agency is unable to collect on an account assigned under this section,  
21 the private collection agency shall notify the state court, commission, department or division that  
22 assigned the account that the private collection agency is unable to collect on the account and that  
23 the private collection agency will relinquish the account. The private collection agency shall relin-  
24 quish the account within a reasonable time or within such time as may be set by agreement. A  
25 private collection agency that is assigned an account under this section shall be held to the same  
26 standard of confidentiality, service and courtesy imposed on a state court in collecting on liquidated  
27 [*and delinquent*] accounts.

28 (5) If a liquidated [*and delinquent*] account is assigned to the Department of Revenue as provided  
29 in ORS 293.250, the Department of Revenue shall have one year from the date of liquidation, or from  
30 the date of receipt of the most recent payment on the account, to collect a payment. If the Depart-  
31 ment of Revenue does not collect a payment within the one-year period or if one year has elapsed  
32 since the date of receipt of the most recent payment on the account, the Department of Revenue  
33 shall notify the state court, commission, department or division that assigned the account. The state  
34 court, commission, department or division shall then immediately offer assignment of the account to  
35 a private collection agency.

36 (6) For the purposes of this section, a state court or a commission, department or division in the  
37 judicial branch of state government shall be considered to have offered an account for assignment  
38 to a private collection agency if:

39 (a) The terms of the offer are of a type generally accepted by the collections industry for the  
40 type of account to be assigned; and

41 (b) The offer is made to a private collection agency that engages in the business of collecting  
42 the type of account to be assigned or made generally to private collection agencies through a bid  
43 or request for proposal process.

44 (7) The offer of assignment of accounts required under this section may be made by the State  
45 Court Administrator on behalf of some or all of the state courts and on behalf of some or all of the

1 commissions, departments and divisions in the judicial branch of state government.

2 **SECTION 17.** ORS 1.198 is amended to read:

3 1.198. (1) ORS 1.197 does not apply to liquidated [*and delinquent*] accounts that are:

4 (a) Prohibited by state or federal law or regulation from assignment or collection; or

5 (b) Subject to collection through an offset of federal tax refunds pursuant to an agreement en-  
6 tered into under ORS 1.196.

7 (2) Notwithstanding ORS 1.197, a state court or a commission, department or division in the  
8 judicial branch of state government, acting in its sole discretion, may choose not to offer a liqui-  
9 dated [*and delinquent*] account to a private collection agency or to the Department of Revenue if the  
10 account:

11 (a) Is secured by a consensual security interest in real or personal property;

12 (b) Is based on that part of a judgment that requires payment of restitution or a payment to the  
13 Crime Victims' Assistance section of the Criminal Justice Division of the Department of Justice;

14 (c) Is in litigation, mediation or arbitration or is subject to a stay in bankruptcy proceedings;

15 (d) Is owed by a local or state government or by the federal government;

16 (e) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who  
17 is on public assistance as defined in ORS 411.010;

18 (f) Consists of moneys for which a district attorney has assumed collection responsibility under  
19 ORS 8.680;

20 (g) Consists of moneys owed by a person who is incarcerated;

21 (h) Is an account that was previously offered to a private collection agency and was refused,  
22 or that was previously assigned to a private collection agency and the agency thereafter relin-  
23 quished the account;

24 (i) Is less than \$100, including penalties; or

25 (j) Would result in loss of federal funding if assigned.

26 **SECTION 18.** ORS 293.250 is amended to read:

27 293.250. (1) There is hereby created a Collections Unit in the Department of Revenue.

28 (2) The Department of Revenue may render assistance in the collection of any delinquent ac-  
29 count owing to any state officer, board, commission, corporation, institution, department or other  
30 state organization, or to a county pursuant to a judgment obtained under ORS 169.151, assigned by  
31 the agency or county to which the delinquent account is owed to the Department of Revenue for  
32 collection.

33 (3)(a) Subject to rules prescribed by the Oregon Department of Administrative Services for col-  
34 lection of delinquent accounts owing to the respective officers, departments, boards and commissions  
35 of state government, and to counties, the Department of Revenue shall render assistance in such  
36 collection and shall charge such officers, agencies and counties separately for the cost of such as-  
37 sistance, provided that charges shall not exceed the proceeds of collection credited to such officer,  
38 agency or county for the same biennium. The Department of Revenue may designate a single per-  
39 centage to retain from the proceeds of collection as a charge for the cost of assistance. If the De-  
40 partment of Revenue finds that accounts assigned to the Department of Revenue for collection by  
41 certain officers, agencies or counties lack sufficient information to properly and efficiently identify  
42 the debtor or that the account information must be put into a form usable by the Department of  
43 Revenue in order to efficiently provide collection services, the Department of Revenue may establish  
44 a separate percentage charge to be retained from collections for the officer, agency or county. The  
45 charge must reflect the average of the actual cost to provide collection services for all accounts

1 assigned by that officer, agency or county. In providing assistance, the Department of Revenue shall  
2 utilize all means available to collect the delinquent accounts including the setoff of any refunds or  
3 sums due to the debtor from the Department of Revenue or any other state agency. The Department  
4 of Revenue may offset any refunds or sums due to the debtor from the department or any other state  
5 agency against delinquent accounts assigned by a county to the department for collection under this  
6 section. The Department of Revenue may prescribe criteria for the kinds of accounts that may be  
7 assigned under this section, including a minimum dollar amount owed.

8 (b) No setoff will be made by the Department of Revenue unless the debt is in a liquidated  
9 amount.

10 (c) When the Department of Revenue has notified the assigning agency or county that a refund  
11 or other sum due to the debtor is available for setoff, the debtor may arrange with the Department  
12 of Revenue for payment of the debt in full before the setoff is made. However, the assigning agency  
13 or county shall not enter into any agreement with the debtor for payment of the debt before the  
14 setoff is made.

15 (d) At the time any setoff is made the debtor shall be notified by the Department of Revenue  
16 of its intention to apply sums due from a state agency against the debtor's delinquent account. The  
17 notice shall provide that the debtor within 30 days may request a hearing before the claimant  
18 agency or county. No issues at the hearing may be considered that have been litigated previously,  
19 or if the debtor after being given due notice of rights of appeal has failed to exercise them timely.

20 (e) All moneys received by the Department of Revenue in payment of charges made under par-  
21 agraph (a) of this subsection shall be paid into the State Treasury and deposited in a miscellaneous  
22 receipts account for the Department of Revenue.

23 (f) Net proceeds of collections of delinquent accounts shall be credited to the account or fund  
24 of the officer, agency or county to which the debt was originally owing.

25 (4)(a) In providing assistance in the collection of any delinquent account under this section, the  
26 Department of Revenue may issue a warrant for the collection of the delinquent account. The  
27 warrant may be recorded in the County Clerk Lien Record maintained under ORS 205.130.

28 (b) A warrant shall not be issued under this subsection unless the debt is in a liquidated amount.

29 (c) The amount of any warrant issued under this subsection shall include the principal amount  
30 of the debt, any added penalties or interest attributable to the delinquent account and any costs  
31 associated with recording, indexing or service of the warrant and any satisfaction or release thereof.

32 (d) A warrant shall not be issued under this subsection before the debtor has been notified that  
33 the department intends to issue the warrant and of the collection action that may be taken under  
34 the warrant.

35 (5) Nothing in this section shall prohibit the collection of:

36 (a) A child or spousal support obligation as provided in ORS 25.610; or

37 (b) [*Criminal judgments that impose monetary obligations, including judgments requiring the pay-*  
38 *ment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution*] **Accounts**  
39 **of state courts under ORS 1.194 to 1.200.**

40  
41 **SEARCH AND ARREST WARRANTS**

42  
43 **SECTION 19.** ORS 133.120 is amended to read:

44 133.120. (1) A judge of the Supreme Court or the Court of Appeals may issue a warrant of arrest  
45 for any crime committed or triable within the state, and any other magistrate mentioned in ORS

1 133.030 may issue a warrant for any crime committed or triable within the territorial jurisdiction  
2 of the magistrate's court.

3 **(2) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned**  
4 **pursuant to ORS 1.615 to serve as a judge pro tempore in a circuit court may issue a warrant**  
5 **of arrest for a crime committed or triable within the territorial jurisdiction of any circuit**  
6 **court in which the judge serves as judge pro tempore if the request for the warrant includes**  
7 **an affidavit showing that a regularly elected or appointed circuit court judge for the judicial**  
8 **district is not available, whether by reason of conflict of interest or other reason, to issue**  
9 **the warrant within a reasonable time.**

10 **SECTION 20.** ORS 133.545 is amended to read:

11 133.545. (1) A search warrant may be issued only by a judge. A search warrant issued by a  
12 judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except  
13 as otherwise provided in [subsection (2)] **subsections (2) and (3)** of this section, a search warrant  
14 issued by a judge of a circuit court may be executed only within the judicial district in which the  
15 court is located. A search warrant issued by a justice of the peace may be executed only within the  
16 county in which the justice court is located. A search warrant issued by a municipal judge author-  
17 ized to exercise the powers and perform the duties of a justice of the peace may be executed only  
18 in the municipality in which the court is located.

19 (2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution  
20 of a search warrant outside the judicial district in which the court is located, if the judge finds from  
21 the application that one or more of the objects of the search relate to an offense committed or  
22 triable within the judicial district in which the court is located. If the warrant authorizes the in-  
23 stallation or tracking of a mobile tracking device, the officer may track the device in any county  
24 to which it is transported.

25 **(3) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned**  
26 **pursuant to ORS 1.615 to serve as a judge pro tempore in a circuit court may authorize ex-**  
27 **ecution of a search warrant in any judicial district in which the judge serves as judge pro**  
28 **tempore if the application requesting the warrant includes an affidavit showing that a regu-**  
29 **larly elected or appointed circuit court judge for the judicial district is not available, whether**  
30 **by reason of conflict of interest or other reason, to issue the warrant within a reasonable**  
31 **time.**

32 [(3)] (4) Application for a search warrant may be made only by a district attorney, a police of-  
33 ficer or a special agent employed under ORS 131.805.

34 [(4)] (5) The application shall consist of a proposed warrant in conformance with ORS 133.565,  
35 and shall be supported by one or more affidavits particularly setting forth the facts and circum-  
36 stances tending to show that the objects of the search are in the places, or in the possession of the  
37 individuals, to be searched. If an affidavit is based in whole or in part on hearsay, the affiant shall  
38 set forth facts bearing on any unnamed informant's reliability and shall disclose, as far as possible,  
39 the means by which the information was obtained.

40 [(5)] (6) Instead of the written affidavit described in subsection [(4)] (5) of this section, the judge  
41 may take an oral statement under oath. The oral statement shall be recorded and transcribed. The  
42 transcribed statement is an affidavit for the purposes of this section. In such cases, the recording  
43 of the sworn oral statement and the transcribed statement shall be certified by the judge receiving  
44 it and shall be retained as a part of the record of proceedings for the issuance of the warrant.

45 [(6)(a)] (7)(a) In addition to the procedure set out in subsection [(5)] (6) of this section, the

1 proposed warrant and the affidavit may be sent to the court by facsimile transmission or any similar  
2 electronic transmission that delivers a complete printable image of the signed affidavit and proposed  
3 warrant. The affidavit may have a notarized acknowledgment, or the affiant may swear to the affi-  
4 davit by telephone. A judge administering an oath telephonically under this subsection must execute  
5 a declaration that recites the manner and time of the oath's administration. The declaration must  
6 be filed with the return.

7 (b) When a court issues a warrant upon an application made under paragraph (a) of this sub-  
8 section:

9 (A) The court may transmit the signed warrant to the person making application under sub-  
10 section [(3)] (4) of this section by means of facsimile transmission or similar electronic transmission,  
11 as described in paragraph (a) of this subsection. The court shall file the original signed warrant  
12 and a printed image of the application with the return.

13 (B) The person making application shall deliver the original signed affidavit to the court with  
14 the return. If the affiant swore to the affidavit by telephone, the affiant must so note next to the  
15 affiant's signature on the affidavit.

16  
17 **GRESHAM CIRCUIT COURT**  
18

19 **SECTION 21.** ORS 3.014 is amended to read:

20 3.014. (1) One of the judges of the fourth judicial district shall hold court in the City of Gresham,  
21 Multnomah County, as directed by the Chief Justice of the Supreme Court but in no event less than  
22 one day a week. **The court in Gresham shall accept all civil filings, including petitions under**  
23 **ORS 107.710, small claims actions and forcible entry and detainer proceedings.** All proceedings  
24 resulting from alleged state traffic offenses or misdemeanors occurring east of 122nd Avenue ex-  
25 tended to the north and south boundaries of Multnomah County shall be conducted in the court in  
26 Gresham unless the accused at first appearance in each action requests trial in Portland.

27 (2) A proceeding to be conducted in Gresham as provided in subsection (1) of this section shall  
28 be transferred without further order of the court to a court facility in Portland for all purposes if:

29 (a) The accused person is in the custody of a county sheriff or the Department of Corrections  
30 at the time set for any scheduled proceeding; or

31 (b) A circuit court in the fourth judicial district issues a bench warrant or a warrant of arrest  
32 against the accused for any criminal action pending before the court.

33 (3) Multnomah County shall provide facilities in the City of Gresham for a court judge to hold  
34 court as described under subsection (1) of this section.

35 **SECTION 22.** The amendments to ORS 3.014 by section 21 of this 2011 Act become oper-  
36 **ative July 1, 2012.**

37  
38 **CAPTIONS**  
39

40 **SECTION 23.** The unit captions used in this 2011 Act are provided only for the conven-  
41 **ience of the reader and do not become part of the statutory law of this state or express any**  
42 **legislative intent in the enactment of this 2011 Act.**

43  
44 **EMERGENCY CLAUSE**  
45

1        **SECTION 24. This 2011 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
3        **on its passage.**

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