

**Enrolled**  
**House Bill 2562**

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

CHAPTER .....

AN ACT

Relating to courts; creating new provisions; amending ORS 1.002, 7.124, 7.240, 18.999, 19.250, 19.365, 19.370, 20.190, 21.010, 21.025, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 21.235, 21.345, 46.570, 105.130, 106.120, 137.289, 137.291, 137.292, 137.294, 137.296, 137.297, 137.300, 153.633, 153.645 and 153.650; appropriating money; limiting expenditures; declaring an emergency; and providing for revenue raising that requires approval by a three-fifths majority.

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

**RULES FOR ELECTRONIC APPLICATIONS**

**SECTION 1.** ORS 1.002 is amended to read:

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

- (a) Make rules and issue orders appropriate to that exercise.
- (b) Require appropriate reports from the judges, other officers and employees of the courts of this state and municipal courts.
- (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or reassign on a temporary basis all judges of the courts of this state to serve in designated locations within or without the county or judicial district for which the judge was elected.
- (d) Set staffing levels for all courts of the state operating under the Judicial Department and for all operations in the Judicial Department.
- (e) Establish time standards for disposition of cases.
- (f) Establish budgets for the Judicial Department and all courts operating under the Judicial Department.
- (g) Assign or reassign all court staff of courts operating under the Judicial Department.
- (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish personnel rules and policies for judges of courts operating under the Judicial Department.
- (i) Establish procedures for closing courts in emergencies.
- (j) Establish standards for determining when courts are closed for purposes of ORCP 10, ORS 174.120 and other rules and laws that refer to periods of time when courts are closed.

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

(2) The Chief Justice may make rules for the use of electronic applications in the courts, including but not limited to rules relating to **any of the following**:

(a) Applications based on the use of the Internet and other similar technologies[;].

(b) The use of an electronic document, or use of an electronic image of a paper document in lieu of the original paper copy, for [a] **any record of the courts maintained under ORS 7.095 and for any** document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding[;].

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

**(A) Served, delivered, received, filed, entered or retained in any action or proceeding; or**

**(B) Maintained under ORS 7.095.**

(d) The use of electronic transmission for:

**(A) [The service of] Serving** documents in [a] **an action or** proceeding, other than [service of] a summons or [service of] an initial complaint or petition;

**(B) Filing documents with a court; and**

**(C) Providing certified electronic copies of court documents and other Judicial Department records to another person or public body.**

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

(f) Electronic storage of court documents[;].

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

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

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

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

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

(5) Rules made and orders issued by the Chief Justice under this section shall permit as much variation and flexibility in the administration of the courts of this state as are appropriate to the most efficient manner of administering each court, considering the particular needs and circumstances of the court, and consistent with the sound and efficient administration of the judicial department of government in this state.

(6) The Chief Justice may establish fees for the use of the Oregon Judicial Information Network.

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

(8) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of this state are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts. Other judges of the Court of Appeals or court under a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of administrative authority and supervision.

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

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

## PROBATE INDEX

**SECTION 2.** ORS 7.240 is amended to read:

7.240. *[The proceedings in probate matters shall be entered and recorded by the clerk or court administrator in the following records:]*

**(1) For probate matters in state courts, the clerk or court administrator shall enter and record the proceedings in the register described in ORS 7.020.**

**(2) For probate matters in courts other than state courts, the clerk or court administrator shall enter and record the proceedings in the following records:**

*[(1)]* **(a)** A register, in which shall be entered a memorandum of all official business transacted by the court or judge thereof pertaining to the estate of each decedent, under the name of the decedent, and that pertaining to each protective proceeding under ORS chapter 125, under the name of the protected person.

*[(2)]* **(b)** A probate index, in which shall be kept an index of all the entries in the register under the names of the persons to whose estate, person or business the entries relate, which names shall be arranged chronologically in alphabetical order.

## DESTRUCTION OF COURT RECORDS

**SECTION 3.** ORS 7.124 is amended to read:

7.124. (1) Pursuant to ORS 8.125 (11), the State Court Administrator may establish procedures that provide for the destruction of records, instruments, books, papers, transcripts and other documents filed in a *[circuit]* **state** court after making a photographic film, microphotographic film, electronic image or other photographic or electronic copy of each document that is destroyed.

(2) A *[circuit]* **state** court may use procedures established under subsection (1) of this section only if at the time of making the copy **of the document or group of documents**, the *[trial]* court administrator *[for the court]* attaches to the copy, attaches to the sealed container in which the copy is placed or incorporates **or causes to be incorporated** into the copy:

(a) A *[certification]* **statement** that the copy is a correct copy of the original, or of a specified part of the original **document or group of documents; and**

(b) The date on which the copy **of the document or group of documents** was made; *and*].

*[(c) A certification that the copy was made under the trial court administrator's direction and control.]*

(3) A *[trial]* court administrator using film for copies under this section must promptly seal and store at least one original or negative copy of the film in a manner and place that will ensure that the film will not be lost, stolen or destroyed.

(4) A *[trial]* court administrator using electronic images for copies under procedures established under subsection (1) of this section must ensure that the electronic images are continuously updated

into commonly used formats and, if necessary, transferred to media necessary to ensure that [they] **the electronic images** are accessible through commonly used electronic or computerized systems.

(5) [Copies of documents] **If a copy of a document** created under this section [must be] is retained in lieu of the original [documents] **document, the copy is the official court record for all purposes and must be retained** for the period established by the schedule prescribed in ORS 8.125 (11).

## ELECTRONIC FILING OF TRANSCRIPTS ON APPEAL

**SECTION 4.** ORS 19.250 is amended to read:

19.250. (1) The notice of appeal [shall] **must** contain the following:

(a) The title of the cause. The party appealing a judgment [shall] **must** be designated the appellant and the adverse party the respondent, but the title of the action or proceeding is not otherwise changed by reason of the appeal.

(b) The names of the parties and their attorneys.

[c] *A notice to all parties or their attorneys as have appeared in the action or proceedings that an appeal is taken from the judgment or some specified part thereof and designating who are the adverse parties to the appeal.*

**(c)(A) If an appellant is not represented by an attorney, a postal address for the appellant and either an electronic mail address for the appellant or a statement that the appellant does not have an electronic mail address.**

**(B) If the appellant is represented by an attorney, a postal address and electronic mail address for the attorney.**

**(d) A notice to each party that appeared in the action or proceeding, or to the attorney for the party, that an appeal is taken from the judgment or some specified part of the judgment and designating the adverse parties to the appeal. The notice of appeal must contain the postal address and electronic mail address, if known to the appellant, for all other parties designated as parties to the appeal.**

[d] (e) A designation of those portions of the proceedings and exhibits to be included in the record in addition to the trial court file. The appellant may amend the designation of record at any time after filing the notice of appeal until 35 days after the [transcript is filed] **filing of a certificate of preparation for the transcript under ORS 19.370 (3). The amendment must be made** by filing and serving in the same manner as a notice of appeal a notice of amended designation of record. The amended [notice shall] **designation must** clearly indicate those portions of the proceedings and exhibits being added to or deleted from the original designation of record. The designation may not be later amended by the appellant unless the appellate court so orders.

[e] (f) A plain and concise statement of the points on which the appellant intends to rely. On appeal, the appellant may rely on no other points than those set forth in such statement. If the appellant has designated for inclusion in the record all the testimony and all the instructions given and requested, no statement of points is necessary. Not later than the 15th day following the filing of the **certificate of preparation for the transcript under ORS 19.370 (3)**, the appellant may serve and file an amended statement of points. Except by approval of the court, the appellant may then rely on no other points than those set forth in such amended statement.

[f] (g) The signature of the appellant or attorney for the appellant.

(2) Within 14 days after the filing of the notice of appeal or [notice of] amended designation of record, any other party may serve and file a designation of additional parts of the proceedings and exhibits to be included in the record. Such designation [shall] **must** be served and filed as provided for the serving and filing of a notice of appeal under ORS 19.240 and 19.260. If such party also appeals, the designation [shall] **must** be included in the notice of appeal of the party and [shall] **may** not be served and filed separately.

[3] *The reporter shall prepare a transcript of such parts of the proceedings as are designated pursuant to subsection (1)(d) of this section and subsection (2) of this section.*

**SECTION 5.** ORS 19.365 is amended to read:

19.365. (1) The record of the case *[shall]* **must** be prepared and transmitted to the court to which the appeal is made in the manner provided in this chapter.

(2) The record on appeal *[shall consist]* **consists** of those parts of the trial court file, exhibits and record of oral proceedings in the trial court that are designated under ORS 19.250. The record of oral proceedings *[shall be]* **is** the transcript prepared under ORS 19.370, an agreed narrative statement prepared under ORS 19.380 or the audio record if the appellate court has waived preparation of a transcript under ORS 19.385.

(3) *[The trial court administrator shall, upon request of the State Court Administrator, deliver the record of the case to the appellate court.]* **The trial court administrator shall make the trial court record available to the State Court Administrator in the manner specified by rules of the appellate court.**

(4) When it appears to the appellate court that the record on appeal is erroneous or that the record does not contain material that should have been part of the trial court file, and the erroneous or incomplete record substantially affects the merits of the appeal, on motion of a party or on its own motion the **appellate** court may make such order to correct or supplement the record as may be just.

(5) If the record on appeal is not sufficient to allow the appellate court to review an assignment of error, the **appellate** court may decline to review the assignment of error and may dismiss the appeal if there are no other assignments of error that may be reviewed.

(6) *[Unless otherwise ordered by the appellate court,]* **Except as provided by rules of the appellate court,** the State Court Administrator shall return the trial court file and the exhibits to the trial court administrator upon issuance of the appellate judgment disposing of the appeal.

**SECTION 6.** ORS 19.370, as amended by section 7, chapter 48, Oregon Laws 2012, is amended to read:

19.370. *[(1) If a transcript is prepared from audio records by a person other than the reporter, then the reporter shall certify the audio records and the transcript shall be certified by the person preparing it. In all other cases the transcript shall be certified by the reporter or the trial judge.]*

*[(2) Except as provided in subsection (3) of this section, the person preparing the transcript shall file the transcript with the trial court administrator within 30 days after the filing of the notice of appeal. The person preparing the transcript shall give immediate notice in writing to the parties that the transcript has been filed. Except as provided in subsection (4) of this section, the person preparing the transcript shall serve the respondent with a copy of the transcript and shall, at the time of filing the original transcript, file proof of such service with the trial court administrator, and with the State Court Administrator.]*

*[(3) If an appeal is referred to the appellate settlement program established by the Court of Appeals pursuant to ORS 2.560, the transcript must be filed within 30 days after expiration of the period of time specified in the rules during which the appeal is held in abeyance, or within 30 days after the court directs that the appeal no longer be held in abeyance, whichever occurs first.]*

*[(4) If there are two or more parties in addition to the appellant who have appeared in the trial court and who are represented by different attorneys, the person preparing the transcript shall at the time of filing the original transcript deposit a copy thereof with the trial court administrator for use by all such other parties. The person preparing the transcript shall serve notice of such deposit upon all such parties and file proof of such service with the trial court administrator and with the State Court Administrator.]*

*[(5) Except as provided in subsection (6) of this section, within 15 days after the transcript is filed, any party may move the trial court for an order to correct any errors appearing in the transcript or, where the interests of justice require, to have additional parts of the proceedings included in the transcript. If two or more persons are preparing parts of the transcript, the motion must be filed within 15 days after the last part of the transcript is filed. A copy of any such motion shall be filed with the court to which the appeal is made. The trial court shall direct the making of such corrections and the*

*adding of such matter as may be appropriate and shall fix the time within which such corrections or additions shall be made.]*

*[(6) If an appeal is referred to the appellate settlement program established by the Court of Appeals pursuant to ORS 2.560, and the transcript is filed during any period of time specified in the rules during which the appeal is held in abeyance, a motion under subsection (5) of this section must be filed within 15 days after expiration of the period of time the appeal is held in abeyance, or within 15 days after the court directs that the appeal no longer be held in abeyance, whichever occurs first.]*

*[(7) Upon the denial of a motion to correct or add to the transcript under subsection (5) of this section, or upon the making of such corrections or additions as may be ordered, whichever last occurs, the trial court shall enter an order settling the transcript and send copies thereof to each of the parties or their attorneys and to the State Court Administrator. In the absence of a motion to correct or add to the transcript, the transcript shall be deemed automatically settled 15 days after it is filed.]*

**(1) If a transcript is prepared from audio records by a person other than the reporter, the reporter shall certify the records and the transcriber shall certify the transcript. In all other cases, the transcript must be certified by the reporter or the trial judge.**

**(2) A transcriber shall prepare a transcript in the format prescribed by the court by the later of:**

**(a) Thirty days after the filing of the notice of appeal; or**

**(b) Thirty days after the expiration of any abeyance of the appeal imposed by reason of the referral of the appeal to the appellate settlement program established by the Court of Appeals pursuant to ORS 2.560.**

**(3) Immediately after preparing a transcript, the transcriber shall:**

**(a) Serve a copy of the transcript on the parties to the appeal in the manner required by subsection (4) of this section; and**

**(b) File a certificate of preparation for the transcript with the State Court Administrator. The certificate must indicate that the transcript has been served in the manner required by subsection (4) of this section. A copy of the certificate must be served on the trial court administrator, the transcript coordinator and the parties.**

**(4) A transcriber may agree with a party or an attorney on the manner in which a transcript will be served. If there is no agreement, a transcriber shall serve a transcript in the following manner:**

**(a) Subject to paragraph (d) of this subsection, if an appellant is not represented by an attorney, the transcriber shall serve an electronic copy of the transcript on the appellant at the electronic mail address provided by the appellant unless the appellant specifically requests that a paper copy of the transcript be mailed to the appellant at the postal address indicated in the notice of appeal. If an electronic mail address for the appellant does not appear in the notice of appeal, the transcriber shall mail a paper copy of the transcript to the appellant at the postal address indicated in the notice of appeal.**

**(b) Subject to paragraph (d) of this subsection, if a respondent is not represented by an attorney, the transcriber shall mail a paper copy of the transcript to the respondent at the postal address indicated in the notice of appeal unless the respondent specifically requests that the transcriber serve an electronic copy of the transcript on the respondent at the electronic mail address provided by the respondent.**

**(c) If a party is represented by an attorney, the transcriber shall serve an electronic copy of the transcript on the attorney at the electronic mail address of the attorney identified in the notice of appeal.**

**(d) If two or more unrepresented appellants request paper copies of a transcript under paragraph (a) of this subsection, or two or more unrepresented respondents request paper copies of a transcript under paragraph (b) of this subsection, the transcriber shall deposit a copy of the transcript with the trial court administrator for the use of the unrepresented parties. The copy must be in the medium specified by the trial court administrator. The transcriber shall serve notice on the unrepresented parties that the transcript has been de-**

posited with the trial court administrator, and file proof of that service with the trial court administrator and with the State Court Administrator. Deposit of a copy of a transcript with the trial court administrator under this paragraph constitutes service of the transcript on the unrepresented parties to the appeal.

(5) If two or more transcribers are preparing parts of the transcript, the certificate of preparation is considered filed under subsection (3) of this section when the final certificate of preparation is filed with the State Court Administrator.

(6)(a) Within 15 days after a certificate of preparation is filed under subsection (3) of this section, any party may file a motion with the trial court for correction of errors appearing in the transcript or to have additional parts of the proceedings included in the transcript. If a certificate of preparation is filed with the State Court Administrator during any period that the appeal is in abeyance by reason of the referral of the appeal to the appellate settlement program established by the Court of Appeals pursuant to ORS 2.560, a motion under this subsection must be filed within 15 days after the expiration of the abeyance.

(b) A copy of a motion to correct or add to the transcript made under this subsection must be served on the State Court Administrator. If the motion is denied, the trial court shall enter an order settling the transcript and transmit a copy of the order to the State Court Administrator.

(c) If a motion is granted under this subsection, the trial court shall direct the making of such corrections and the adding of such matter as may be appropriate and shall fix the time within which such corrections or additions must be made. Immediately after preparing the corrected or additional transcript, the transcriber shall serve a copy of the transcript on the parties in the manner required by subsection (4) of this section, and file proof of that service with the trial court administrator, the transcript coordinator and the State Court Administrator. Upon receiving proof of service from all transcribers of the proceedings, the State Court Administrator shall issue a notice to the parties indicating that the transcript has been settled.

(7) Unless a motion to correct or add to the transcript is made under subsection (6) of this section, a transcript is automatically settled 15 days after a certificate of preparation is filed under subsection (3) of this section. If a motion to correct or add to the transcript is made, the transcript is settled on the date that the State Court Administrator issues the notice to the parties under subsection (6) of this section.

(8) When a transcript is settled, the State Court Administrator shall notify each transcriber who filed a certificate of preparation. Upon receiving the notice, a transcriber shall file an electronic copy of the transcript with the State Court Administrator in the manner and format prescribed by rules of the appellate court.

**SECTION 7.** ORS 21.345 is amended to read:

21.345. (1)(a) A *[reporter appointed under ORS 8.340 (2)]* **transcriber** may not charge more than *[\$2.50]* **\$3** per page for *[the original transcript, or more than 25 cents per page for each additional copy, for preparing transcripts on appeal as provided in ORS 8.350]* **preparation of a transcript.**

(b) **A transcriber may not charge a fee in addition to the fee established under this subsection for:**

(A) **An electronic copy required to be served on a party;**

(B) **A paper copy required to be served on an unrepresented party under ORS 19.370 (4)(a) or (b); or**

(C) **A paper copy required to be filed with the trial court under ORS 19.370 (4)(d).**

(2) Except as provided in subsection (3) of this section, a reporter employed by one of the parties may charge fees as agreed to between the reporter and all of the parties to the proceeding for preparing transcripts on appeal *[as provided in ORS 8.350]*. The reporter and the parties *[shall]* **must** agree to the fees to be charged *[prior to]* **before** the commencement of the proceeding to be recorded. **A share of** any fees agreed upon shall be charged to parties joining the proceeding after

the commencement of the proceeding [for preparing transcripts on appeal as provided in ORS 8.350].

(3) A reporter employed by one of the parties may not charge a public body, as defined by ORS 174.109, fees for preparing transcripts on appeal [as provided in ORS 8.350] that exceed the fees established by subsection (1) of this section.

(4) Each page of the original transcript on appeal prepared [by a reporter] under this section must be prepared as specified by rules for transcripts on appeal adopted by the Supreme Court **and the Court of Appeals.**

(5) Except as otherwise provided by law, the fees for preparing a transcript requested by a party shall be paid forthwith by the party, and when paid shall be taxable as disbursements in the case. The fees for preparing a transcript requested by the court, and not by a party, shall be paid by the state from funds available for the purpose.

(6) When the court provides personnel to prepare transcripts from audio records of court proceedings, the [transcript] fees provided in subsection (1) of this section to be paid by a party shall be paid to the clerk of the court.

(7) **For purposes of this section, "transcript" has the meaning given that term in ORS 19.005.**

**SECTION 8. The amendments to ORS 19.250, 19.365, 19.370 and 21.345 by sections 4 to 7 of this 2013 Act apply only to transcripts requested on or after the effective date of this 2013 Act.**

#### CRIMINAL FINE DISTRIBUTION

**SECTION 9.** ORS 153.633, as amended by section 15, chapter 89, Oregon Laws 2012, is amended to read:

153.633. (1) In any criminal action in **a circuit court in** which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

- (a) \$60; or
- (b) The amount of the fine if the fine is less than \$60.

(2) **In any criminal action in a justice or municipal court in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:**

- (a) \$45; or
- (b) **The amount of the fine if the fine is less than \$45.**

[2)] (3) A justice or municipal court shall forward the amount prescribed under subsection [(1)] (2) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

[(3)] (4) The provisions of **subsection (2) of this section** do not apply to fines imposed in justice and municipal courts under ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).

**SECTION 10.** ORS 153.645 is amended to read:

153.645. (1) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) **Subject to subsection (4) of this section,** one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the county in which the justice court is located; and

(c) **Subject to subsection (4) of this section,** one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.



(2) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a sheriff, deputy sheriff or any other enforcement officer employed by the county:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) **Subject to subsection (4) of this section**, the remaining amount of the fine is payable to the county in which the court is located.

(3) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the county in which the court is located.

**(4) If the full amount of the fine imposed by a justice court is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in section 13 of this 2013 Act. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).**

**SECTION 11.** ORS 153.650 is amended to read:

153.650. (1) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the municipal court is located; and

(c) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.

(2) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a city police officer or any other enforcement officer employed by the city:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) **Subject to subsection (4) of this section**, the remaining amount of the fine is payable to the city in which the court is located.

(3) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 [(1)] (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) **Subject to subsection (4) of this section**, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the court is located.

(4) **If the full amount of the fine imposed by a municipal court is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in section 13 of this 2013 Act. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).**

**SECTION 12. Section 13 of this 2013 Act is added to and made a part of ORS 153.640 to 153.680.**

**SECTION 13. (1) If a justice or municipal court imposes a fine for any offense other than a traffic offense and the full amount of the fine imposed is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in this section. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).**

(2) **Sixty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the county treasury and may be used only for drug and alcohol programs and for the costs of planning, operating and maintaining county juvenile and adult corrections programs and facilities.**

(3) **Forty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the court facilities security account established under ORS 1.182 for the county in which the court is located.**

**SECTION 14. Sections 15 to 20 of this 2013 Act are added to and made a part of ORS 137.289 to 137.297.**

**SECTION 15. As used in ORS 137.289 to 137.297:**

(1) **“Criminal judgment” means a judgment of conviction in a criminal action.**

(2) **“Local court” means a justice or municipal court.**

**SECTION 16. (1) There are four levels of priority for application of payments on criminal judgments entered in local courts, with Level I obligations having the highest priority and Level IV obligations having the lowest priority. All payments on a criminal judgment entered in a local court shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.**

(2) **Except as provided in section 18 of this 2013 Act, if there is more than one person or public body to whom an obligation is payable under a level, a local court shall divide each payment based on each person’s or public body’s proportionate share of the total amount of obligations in that level.**

**SECTION 17. Level I obligations in criminal judgments entered in local courts are compensatory fines imposed pursuant to ORS 137.101.**

**SECTION 18. (1) There are two types of Level II obligations in criminal judgments entered in local courts:**

(a) **Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.**

(b) **Type 2 obligations include all fines and other monetary obligations payable to the state, a city or a county, after payment of the amount provided for in ORS 153.633 (2).**

(2) If a criminal judgment entered in a local court contains both types of Level II obligations, the court shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the amounts to Type 2 obligations, until all obligations in one of the two types have been paid in full. All subsequent amounts creditable to Level II obligations shall be applied against the other type of obligations until those obligations have been paid in full.

(3) If there is more than one person for whose benefit a Type 1 money award has been made, a local court shall pay the moneys credited to Type 1 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the court shall first pay all moneys credited to Type 1 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the court shall thereafter transfer moneys credited to Type 1 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the court shall thereafter pay the moneys credited to Type 1 obligations to those victims until those victims are paid in full.

**SECTION 19.** Level III obligations in criminal judgments entered in local courts are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109.

**SECTION 20.** Level IV obligations in criminal judgments entered in local courts are amounts payable for reward reimbursement under ORS 131.897.

**SECTION 21.** ORS 137.289 is amended to read:

137.289. (1) There are five levels of priority for application of payments on [*judgments of conviction in criminal actions*] **criminal judgments entered in circuit courts**, with Level I obligations having the highest priority and Level V obligations having the lowest priority. All payments on a [*judgment of conviction in a criminal action*] **criminal judgment entered in a circuit court** shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.

(2) Except as provided in ORS 137.292, if there is more than one person or public body to whom an obligation is payable under a level, [*the*] **a circuit court** shall divide each payment based on each person's or public body's proportionate share of the total amount of obligations in that level.

**SECTION 22.** ORS 137.291 is amended to read:

137.291. [*Compensatory fines under ORS 137.101 are Level I obligations*] **Level I obligations in criminal judgments entered in circuit courts are compensatory fines imposed pursuant to ORS 137.101.**

**SECTION 23.** ORS 137.292 is amended to read:

137.292. (1) There are two types of Level II obligations **in criminal judgments entered in circuit courts**:

(a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.

(b) Type 2 obligations include all fines and other monetary obligations payable to the state for which the law does not expressly provide other disposition, including fines payable to the state [*by justice and municipal courts*] under ORS 153.633, 153.645 and 153.650.

(2) If a judgment contains both types of Level II obligations, the **circuit court** shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the

amounts to Type 2 obligations, until all obligations in one of the two types have been paid in full. All subsequent amounts creditable to Level II obligations shall be applied against the other type of obligations until those obligations have been paid in full.

(3) If there is more than one person for whose benefit a Type 1 money award has been made, the *[clerk]* **circuit court** shall pay the moneys credited to Type 1 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the *[clerk]* **court** shall first pay all moneys credited to Type 1 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the *[clerk]* **court** shall thereafter transfer moneys credited to Type 1 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the *[clerk]* **court** shall thereafter pay the moneys credited to Type 1 obligations to those victims until those victims are paid in full.

**SECTION 24.** ORS 137.294 is amended to read:

137.294. Level III obligations **in criminal judgments entered in circuit courts** are fines payable to a county or city.

**SECTION 25.** ORS 137.296 is amended to read:

137.296. Level IV obligations **in criminal judgments entered in circuit courts** are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109.

**SECTION 26.** ORS 137.297 is amended to read:

137.297. Level V obligations **in criminal judgments entered in circuit courts** are amounts payable for reward reimbursement under ORS 131.897.

**SECTION 27.** ORS 137.300, as amended by section 14, chapter 89, Oregon Laws 2012, and section 2, chapter 40, Oregon Laws 2013, is amended to read:

137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise provided by law, all amounts collected in state courts as monetary obligations in criminal actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the State Medical Examiner.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(4) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection [(3)(c) and (d)] **(3)(d)** of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit, justice and municipal courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

(5) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

(6) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2) and (3) of this section have been made.

(7) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter.

**SECTION 28. Sections 13 and 15 to 20 of this 2013 Act and the amendments to ORS 137.289, 137.291, 137.292, 137.294, 137.296, 137.297, 153.633, 153.645 and 153.650 by sections 9 to 11 and 21 to 26 of this 2013 Act apply to all offenses committed on or after July 31, 2013.**

#### **WAIVER OF APPELLATE MOTION FEES FOR PUBLIC BODIES**

**SECTION 28a.** ORS 21.025 is amended to read:

21.025. (1) In any appeal or petition for review subject to a fee under ORS 21.010, a \$50 fee must be paid by the party filing one of the following motions and by the party responding to the motion:

[(1)] (a) A motion to dismiss filed by a respondent.

[(2)] (b) A motion to determine jurisdiction.

[(3)] (c) A motion for continuance.

[(4)] (d) A motion for an extension of time for the filing of a brief or other document in the proceeding.

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

**SECTION 28b.** (1) **The amendments to ORS 21.025 by section 28a of this 2013 Act apply to all motions filed by the state, a county, a city or a school district on and after October 1, 2011.**

**(2) Notwithstanding subsection (1) of this section, the amount of any fee collected from the state, a county, a city or a school district under ORS 21.025, as in effect immediately before the effective date of this 2013 Act, is validated.**

#### **FILING FEES**

**SECTION 29.** ORS 21.010 is amended to read:

21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of [\$355] **\$373** in the manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to

the State Court Administrator a filing fee of [~~\$355~~] **\$373**. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200, the involuntary commitment of persons determined to be mentally ill under ORS 426.135 or persons determined to have an intellectual disability under ORS 427.295 or orders of the State Board of Parole and Post-Prison Supervision or on judicial review of orders entered under ORS 161.315 to 161.351 by the Psychiatric Security Review Board or the Oregon Health Authority.

(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

(5) The filing and appearance fees established by this section apply to cases of original jurisdiction in the Supreme Court.

**SECTION 29a.** ORS 21.010, as amended by section 29 of this 2013 Act, is amended to read:

21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of [~~\$373~~] **\$355** in the manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator a filing fee of [~~\$373~~] **\$355**. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200, the involuntary commitment of persons determined to be mentally ill under ORS 426.135 or persons determined to have an intellectual disability under ORS 427.295 or orders of the State Board of Parole and Post-Prison Supervision or on judicial review of orders entered under ORS 161.315 to 161.351 by the Psychiatric Security Review Board or the Oregon Health Authority.

(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

(5) The filing and appearance fees established by this section apply to cases of original jurisdiction in the Supreme Court.

**SECTION 30.** ORS 21.135 is amended to read:

21.135. (1) Unless a specific fee is provided by other law for a proceeding, a circuit court shall collect a filing fee of [~~\$240~~] **\$252** when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) The filing fee established by this section applies to:

- (a) Proceedings in which only equitable remedies are sought.
- (b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS 21.285.
- (c) Interpleader actions.
- (d) Adoptions under ORS chapter 109.
- (e) Actions relating to a trust.
- (f) Proceedings for judicial review of an agency order.
- (g) Declaratory judgment actions.

(h) Any other action or proceeding that is statutorily made subject to the fee established by this section and any other civil proceeding for which a specific filing fee is not provided.

**SECTION 30a.** ORS 21.135, as amended by section 30 of this 2013 Act, is amended to read:

21.135. (1) Unless a specific fee is provided by other law for a proceeding, a circuit court shall collect a filing fee of [~~\$252~~] **\$240** when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) The filing fee established by this section applies to:

(a) Proceedings in which only equitable remedies are sought.

(b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS 21.285.

(c) Interpleader actions.

(d) Adoptions under ORS chapter 109.

(e) Actions relating to a trust.

(f) Proceedings for judicial review of an agency order.

(g) Declaratory judgment actions.

(h) Any other action or proceeding that is statutorily made subject to the fee established by this section and any other civil proceeding for which a specific filing fee is not provided.

**SECTION 31.** ORS 21.145 is amended to read:

21.145. In the following proceedings, a circuit court shall collect a filing fee of [~~\$105~~] **\$111** when a complaint or other document is filed for the purpose of commencing an action or other proceeding and at the time of filing an answer or other first appearance in the proceeding:

(1) Applications for change of name under ORS 33.410.

(2) Applications for a legal change of sex under ORS 33.460.

(3) Guardianship proceedings under ORS chapter 125.

(4) Any other action or proceeding that is statutorily made subject to the fee established by this section.

**SECTION 31a.** ORS 21.145, as amended by section 31 of this 2013 Act, is amended to read:

21.145. In the following proceedings, a circuit court shall collect a filing fee of [~~\$111~~] **\$105** when a complaint or other document is filed for the purpose of commencing an action or other proceeding and at the time of filing an answer or other first appearance in the proceeding:

(1) Applications for change of name under ORS 33.410.

(2) Applications for a legal change of sex under ORS 33.460.

(3) Guardianship proceedings under ORS chapter 125.

(4) Any other action or proceeding that is statutorily made subject to the fee established by this section.

**SECTION 32.** ORS 21.155 is amended to read:

21.155. A circuit court shall collect a filing fee of [~~\$260~~] **\$273** when a complaint or other document is filed for the purpose of commencing one of the following proceedings and when an answer or other first appearance is filed in the proceeding:

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

(2) Filiation proceedings under ORS 109.124 to 109.230.

(3) Proceedings under ORS 108.110, 109.100 and 109.103.

**SECTION 32a.** ORS 21.155, as amended by section 32 of this 2013 Act, is amended to read:

21.155. A circuit court shall collect a filing fee of [~~\$273~~] **\$260** when a complaint or other document is filed for the purpose of commencing one of the following proceedings and when an answer or other first appearance is filed in the proceeding:

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

(2) Filiation proceedings under ORS 109.124 to 109.230.

(3) Proceedings under ORS 108.110, 109.100 and 109.103.

**SECTION 33.** ORS 21.160, as amended by section 2, chapter 48, Oregon Laws 2012, is amended to read:

21.160. (1) A circuit court shall collect the following filing fees when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding based on a tort or contract and when an answer or other first appearance is filed in the proceeding:

(a) If the amount claimed is \$10,000 or less, the court shall collect a filing fee of [~~\$150~~] **\$158**.

(b) If the amount claimed is more than \$10,000 and less than \$50,000, the court shall collect a filing fee of [~~\$240~~] **\$252**.

(c) If the amount claimed is \$50,000 or more, and less than \$1 million, the court shall collect a filing fee of [~~\$505~~] **\$531**.

(d) If the amount claimed is \$1 million or more and less than \$10 million, the court shall collect a fee of [~~\$755~~] **\$793**.

(e) If the amount claimed is \$10 million or more, the court shall collect a filing fee of [~~\$1,005~~] **\$1,056**.

(2) The filing fees provided by this section apply to proceedings for the foreclosure of a mortgage, lien or other security interest. For the purposes of such proceedings, the amount claimed is the amount of the debt secured by the mortgage, lien or other security interest that is owing as of the date that the proceeding is filed.

(3) The filing fees provided by this section apply to proceedings for specific performance of a contract. For the purposes of such proceedings, the amount claimed is the amount owing under the contract on the date that the proceeding is filed.

(4) A court shall collect the filing fees provided by this section when an appeal from a justice court is filed under ORS 53.005 to 53.125 or a case is transferred from a justice court under ORS 52.320.

(5) For purposes of this section, the amount claimed in a proceeding does not include any amount claimed as attorney fees or as costs and disbursements.

(6) For purposes of this section, the amount claimed in a proceeding includes any penalty or forfeiture provided by statute or arising out of contract.

**SECTION 33a.** ORS 21.160, as amended by section 2, chapter 48, Oregon Laws 2012, and section 33 of this 2013 Act, is amended to read:

21.160. (1) A circuit court shall collect the following filing fees when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding based on a tort or contract and when an answer or other first appearance is filed in the proceeding:

(a) If the amount claimed is \$10,000 or less, the court shall collect a filing fee of [~~\$158~~] **\$150**.

(b) If the amount claimed is more than \$10,000 and less than \$50,000, the court shall collect a filing fee of [~~\$252~~] **\$240**.

(c) If the amount claimed is \$50,000 or more, and less than \$1 million, the court shall collect a filing fee of [~~\$531~~] **\$505**.

(d) If the amount claimed is \$1 million or more and less than \$10 million, the court shall collect a fee of [~~\$793~~] **\$755**.

(e) If the amount claimed is \$10 million or more, the court shall collect a filing fee of [~~\$1,056~~] **\$1,005**.

(2) The filing fees provided by this section apply to proceedings for the foreclosure of a mortgage, lien or other security interest. For the purposes of such proceedings, the amount claimed is the amount of the debt secured by the mortgage, lien or other security interest that is owing as of the date that the proceeding is filed.

(3) The filing fees provided by this section apply to proceedings for specific performance of a contract. For the purposes of such proceedings, the amount claimed is the amount owing under the contract on the date that the proceeding is filed.

(4) A court shall collect the filing fees provided by this section when an appeal from a justice court is filed under ORS 53.005 to 53.125 or a case is transferred from a justice court under ORS 52.320.

(5) For purposes of this section, the amount claimed in a proceeding does not include any amount claimed as attorney fees or as costs and disbursements.



(6) For purposes of this section, the amount claimed in a proceeding includes any penalty or forfeiture provided by statute or arising out of contract.

**SECTION 34.** ORS 21.170 is amended to read:

21.170. (1) Except as provided in ORS 114.515, a probate court shall collect the following filing fees for the filing of a petition for the appointment of personal representative:

- (a) If the value of the estate is less than \$50,000, [~~\$240~~] **\$252**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$505~~] **\$531**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$755~~] **\$793**.
- (d) If the value of the estate is \$10 million or more, [~~\$1,005~~] **\$1,056**.

(2) A probate court shall collect the following fees for an annual or final accounting filed in a probate proceeding:

- (a) If the value of the estate is less than \$50,000, [~~\$30~~] **\$32**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$255~~] **\$268**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$505~~] **\$531**.
- (d) If the value of the estate is \$10 million or more, [~~\$1,005~~] **\$1,056**.

(3) For the purpose of determining the value of the estate under this section, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(4) A person filing an appearance in a probate proceeding must pay the fee established under ORS 21.135.

(5) The fees established under this section apply to county courts exercising probate jurisdiction.

**SECTION 34a.** ORS 21.170, as amended by section 34 of this 2013 Act, is amended to read:

21.170. (1) Except as provided in ORS 114.515, a probate court shall collect the following filing fees for the filing of a petition for the appointment of personal representative:

- (a) If the value of the estate is less than \$50,000, [~~\$252~~] **\$240**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$531~~] **\$505**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$793~~] **\$755**.
- (d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,005**.

(2) A probate court shall collect the following fees for an annual or final accounting filed in a probate proceeding:

- (a) If the value of the estate is less than \$50,000, [~~\$32~~] **\$30**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$268~~] **\$255**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$531~~] **\$505**.
- (d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,005**.

(3) For the purpose of determining the value of the estate under this section, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(4) A person filing an appearance in a probate proceeding must pay the fee established under ORS 21.135.

(5) The fees established under this section apply to county courts exercising probate jurisdiction.

**SECTION 35.** ORS 21.180 is amended to read:

21.180. (1) The court shall collect the following filing fees for the filing of the initial documents in a conservatorship proceeding:

- (a) If the value of the estate is less than \$50,000, [~~\$240~~] **\$252**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$505~~] **\$531**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$755~~] **\$793**.
- (d) If the value of the estate is \$10 million or more, [~~\$1,005~~] **\$1,056**.

(2) The court shall collect the following fees for an annual or final accounting filed in a conservatorship proceeding:

- (a) If the value of the estate is less than \$50,000, [~~\$30~~] **\$32**.
- (b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$255~~] **\$268**.
- (c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$505~~] **\$531**.

(d) If the value of the estate is \$10 million or more, [~~\$1,005~~] **\$1,056**.

(3) For the purpose of determining the value of the estate under this section, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(4) Except as provided in subsection (1) of this section, at the time of filing an appearance in a conservatorship proceeding the party filing the appearance must pay the filing fee established under ORS 21.135.

(5) The fees established by this section apply to county courts exercising probate jurisdiction.

**SECTION 35a.** ORS 21.180, as amended by section 35 of this 2013 Act, is amended to read:

21.180. (1) The court shall collect the following filing fees for the filing of the initial documents in a conservatorship proceeding:

(a) If the value of the estate is less than \$50,000, [~~\$252~~] **\$240**.

(b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$531~~] **\$505**.

(c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$793~~] **\$755**.

(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,005**.

(2) The court shall collect the following fees for an annual or final accounting filed in a conservatorship proceeding:

(a) If the value of the estate is less than \$50,000, [~~\$32~~] **\$30**.

(b) If the value of the estate is \$50,000 or more, but less than \$1 million, [~~\$268~~] **\$255**.

(c) If the value of the estate is \$1 million or more, but less than \$10 million, [~~\$531~~] **\$505**.

(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,005**.

(3) For the purpose of determining the value of the estate under this section, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(4) Except as provided in subsection (1) of this section, at the time of filing an appearance in a conservatorship proceeding the party filing the appearance must pay the filing fee established under ORS 21.135.

(5) The fees established by this section apply to county courts exercising probate jurisdiction.

**SECTION 36.** ORS 46.570 is amended to read:

46.570. The small claims department of a circuit court shall collect the following filing fees from the plaintiff when a claim is filed in the court, and from the defendant when the defendant demands a hearing:

(1) [~~\$50~~] **\$53**, when the amount claimed is \$2,500 or less; and

(2) [~~\$90~~] **\$95**, when the amount is more than \$2,500.

**SECTION 36a.** ORS 46.570, as amended by section 36 of this 2013 Act, is amended to read:

46.570. The small claims department of a circuit court shall collect the following filing fees from the plaintiff when a claim is filed in the court, and from the defendant when the defendant demands a hearing:

(1) [~~\$53~~] **\$50**, when the amount claimed is \$2,500 or less; and

(2) [~~\$95~~] **\$90**, when the amount is more than \$2,500.

**SECTION 37.** ORS 105.130 is amended to read:

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

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

(a) Collect a filing fee of [~~\$75~~] **\$79**;

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

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

(3) The court shall collect a filing fee of [~~\$75~~] **\$79** from a defendant that demands a trial under this section.

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

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

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

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

(6) An action brought under ORS 105.110 by a person entitled to possession of premises on the basis of circumstances described in ORS 105.115 (1)(d), (e) or (f) is subject to the filing fees and other court or sheriff fees applicable to an action concerning a dwelling unit that is subject to ORS chapter 90. The procedure under ORS 105.105 to 105.168 that is applicable to an action concerning a dwelling unit subject to ORS chapter 90 shall also apply to an action brought under ORS 105.115 (1)(d), (e) or (f), except that the complaint must be in the form prescribed in ORS 105.126.

**SECTION 37a.** ORS 105.130, as amended by section 37 of this 2013 Act, is amended to read:

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

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

(a) Collect a filing fee of [~~\$79~~] **\$75**;

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

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

(3) The court shall collect a filing fee of [~~\$79~~] **\$75** from a defendant that demands a trial under this section.

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

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

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

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

(6) An action brought under ORS 105.110 by a person entitled to possession of premises on the basis of circumstances described in ORS 105.115 (1)(d), (e) or (f) is subject to the filing fees and other court or sheriff fees applicable to an action concerning a dwelling unit that is subject to ORS chapter 90. The procedure under ORS 105.105 to 105.168 that is applicable to an action concerning a dwelling unit subject to ORS chapter 90 shall also apply to an action brought under ORS 105.115 (1)(d), (e) or (f), except that the complaint must be in the form prescribed in ORS 105.126.

**SECTION 38.** (1) **The amendments to ORS 20.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 46.570 and 105.130 by sections 29, 30, 31, 32, 33, 34, 35, 36 and 37 of this 2013 Act apply to filings made on or after October 1, 2013.**

(2) **If a civil action or proceeding is filed before October 1, 2013, and an answer or other first appearance is not filed in the proceeding until on or after October 1, 2013, the person**

filing the answer or other first appearance must pay the appropriate fee prescribed in ORS 20.010, 21.135, 21.145, 21.155, 21.160, 21.165, 21.170, 21.175, 21.180, 46.570 and 105.130, as in effect on October 1, 2013.

(3) Notwithstanding ORS 21.105 and 21.160, if an action or proceeding based on a tort or contract is filed before October 1, 2013, and the complaint or any other pleading filed in the proceeding is amended on or after October 1, 2013, to increase the amount claimed, the person filing the amended pleading must pay an additional filing fee if the filing fee under ORS 21.160 is greater than the filing fee previously paid. The amount of the additional filing fee is equal to the difference between the filing fee previously paid and the filing fee provided by ORS 21.160 for the amount claimed.

(4) Notwithstanding ORS 21.105, 21.170 and 21.180, if a petition for the appointment of a personal representative or the initial documents for a conservatorship proceeding are filed before October 1, 2013, and the inventory filed in the proceeding is amended to increase the value of the estate on or after October 1, 2013, the person filing the amended pleading must pay an additional filing fee that is equal to the difference between the filing fee that was paid by the party when the original pleading was filed and the filing fee that would have been collected under ORS 21.170 or 21.180 if the amount had been pleaded in the original pleading.

**SECTION 38a.** (1) The amendments to ORS 20.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 46.570 and 105.130 by sections 29a, 30a, 31a, 32a, 33a, 34a, 35a, 36a and 37a of this 2013 Act become operative on July 1, 2014.

(2) The amendments to ORS 20.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 46.570 and 105.130 by sections 29a, 30a, 31a, 32a, 33a, 34a, 35a, 36a and 37a of this 2013 Act apply to filings made on or after July 1, 2014.

(3) If a civil action or proceeding is filed before July 1, 2014, and an answer or other first appearance is not filed in the proceeding until on or after July 1, 2014, the person filing the answer or other first appearance must pay the appropriate fee prescribed in ORS 20.010, 21.135, 21.145, 21.155, 21.160, 21.165, 21.170, 21.175, 21.180, 46.570 and 105.130, as in effect on July 1, 2014.

(4) Notwithstanding ORS 21.105 and 21.160, if an action or proceeding based on a tort or contract is filed before July 1, 2014, and the complaint or any other pleading filed in the proceeding is amended on or after July 1, 2014, to increase the amount claimed, the person filing the amended pleading must pay an additional filing fee if the filing fee under ORS 21.160 is greater than the filing fee previously paid. The amount of the additional filing fee is equal to the difference between the filing fee previously paid and the filing fee that would have been collected under ORS 21.170 or 21.180 if the amount had been claimed in the original pleading.

(5) Notwithstanding ORS 21.105, 21.170 and 21.180, if a petition for the appointment of a personal representative or the initial documents for a conservatorship proceeding are filed before July 1, 2014, and the inventory filed in the proceeding is amended to increase the value of the estate on or after July 1, 2014, the person filing the amended pleading must pay an additional filing fee that is equal to the difference between the filing fee that was paid by the party when the original pleading was filed and the filing fee that would have been collected under ORS 21.170 or 21.180 if the amount had been pleaded in the original pleading.

## WRITS OF GARNISHMENT

**SECTION 39.** ORS 18.999 is amended to read:

18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes procedures for that recovery. The following apply to this section:

(1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff may proceed as follows:

(a) Before crediting the total amount of moneys received against the judgment or debt, the plaintiff may recover and keep from the total amount received under the garnishment, attachment or payment any moneys allowed to be recovered under this section.

(b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall credit the remainder of the moneys received against the judgment or debt as provided by law.

(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid on and to be credited against the original judgment or debt sought to be enforced. No additional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

(3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific judgment or debt that the specific garnishment or attachment was issued to enforce or upon which the payment was received. Moneys recoverable under subsection (1)(a) of this section remain recoverable and, except as provided under subsection (8) of this section, may be recovered from moneys received by the plaintiff under subsequent garnishments, attachments or payments on the same specific judgment or debt.

(4) This section allows the recovery only of the following:

(a) Statutorily established moneys that meet the requirements under subsection (3) of this section, as follows:

(A) Garnishee's search fees under ORS 18.790.

(B) Fees for delivery of writs of garnishment under ORS 18.652.

(C) Circuit court fees as provided under ORS 21.235 and 21.258.

(D) County court fees as provided under ORS 5.125.

(E) County clerk recording fees as provided in ORS 205.320.

(F) Actual fees or disbursements made under ORS 21.300.

(G) Costs of execution as provided in ORS 105.112.

(H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [~~\$35~~] **\$37** for each garnishment.

(I) Costs of an execution sale as described in ORS 18.950 (2).

(J) Fees paid under ORS 21.200 for motions and responses to motions filed after entry of a judgment.

(K) Amounts paid to a sheriff for the fees and expenses of executing a warrant under ORS 105.510.

(b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and ending upon recovery of the amount under this section.

(5) The plaintiff shall be responsible for doing all of the following:

(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section and making the accounting available for any proceeding relating to that judgment or debt.

(b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under subsection (1)(a) of this section.

(6) Moneys recovered under subsection (1)(a) of this section remain subject to all other provisions of law relating to payments, or garnished or attached moneys including, but not limited to, those relating to exemption, claim of exemption, overpayment and holding periods.

(7) Nothing in this section limits the right of a plaintiff to recover moneys described in this section or other moneys in any manner otherwise allowed by law.

(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recoverable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced to a judgment or to a debt enforceable under ORS 18.854.

**SECTION 40.** ORS 21.235 is amended to read:

21.235. (1) A circuit court shall collect a fee of [~~\$15~~] **\$16** for:

(a) Making or entering a transcript of a judgment.

(b) Preparing a certified copy of a satisfaction document under ORS 18.225 (5).

- (c) Issuing notices of restitution as provided in ORS 105.151.
- (d) Any other service that is statutorily made subject to the fee established in this section.
- (2) A circuit court shall collect a fee of [~~\$35~~] **\$37** for issuing a writ of execution or a writ of garnishment.

**SECTION 40a.** ORS 21.235, as amended by section 40 of this 2013 Act, is amended to read:

21.235. (1) A circuit court shall collect a fee of [~~\$16~~] **\$15** for:

- (a) Making or entering a transcript of a judgment.
- (b) Preparing a certified copy of a satisfaction document under ORS 18.225 (5).
- (c) Issuing notices of restitution as provided in ORS 105.151.
- (d) Any other service that is statutorily made subject to the fee established in this section.
- (2) A circuit court shall collect a fee of [~~\$37~~] **\$35** for issuing a writ of execution or a writ of garnishment.

**SECTION 41.** (1) **The amendments to ORS 18.999 and 21.235 (2) by sections 39 and 40 of this 2013 Act apply only to writs of garnishment issued on or after October 1, 2013.**

(2) **The amendments to ORS 21.235 (1) by section 40 of this 2013 Act apply only to services described in ORS 21.235 (1) that are rendered on or after October 1, 2013.**

**SECTION 41a.** (1) **The amendments to ORS 21.235 (2) by section 40a of this 2013 Act become operative on July 1, 2014.**

(2) **The amendments to ORS 21.235 (2) by section 40a of this 2013 Act apply only to writs of garnishment issued on or after July 1, 2014.**

(3) **The amendments to ORS 21.235 (1) by section 40a of this 2013 Act apply only to services described in ORS 21.235 (1) that are rendered on or after July 1, 2014.**

## **MARRIAGE SOLEMNIZATION**

**SECTION 42.** ORS 106.120 is amended to read:

106.120. (1) As used in this section, "judicial officer" means:

(a) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not limited to a judge of a municipal court and a justice of the peace.

(b) An active judge of a federal court.

(c) An active United States magistrate judge.

(2) Marriages may be solemnized by:

(a) A judicial officer;

(b) A county clerk;

(c) Religious congregations or organizations as indicated in ORS 106.150 (2); or

(d) A clergyperson of any religious congregation or organization who is authorized by the congregation or organization to solemnize marriages.

(3) A person authorized to solemnize marriages under subsection (2) of this section may solemnize a marriage anywhere in this state.

(4)(a) When a marriage is solemnized by a tax, appellate or circuit judge of this state, the clerk of the court or the county clerk shall collect a fee of [~~\$100~~] **\$105** and deposit the fee in the Judicial Department Operating Account established in ORS 1.009.

(b) When a marriage is solemnized by a county clerk, the county clerk shall collect a fee of [~~\$100~~] **\$105**, as provided in ORS 205.320.

(c) The fee described in this subsection may be collected only if:

(A) The marriage is solemnized during normal working hours, excluding holidays;

(B) The marriage is solemnized in court facilities or a county clerk's office; or

(C) More than a minimal amount of staff time or other court or county clerk's office resources are used in connection with the solemnization.

(d) The Chief Justice of the Supreme Court or the county clerk may establish a written procedure for waiver of the fee required under this subsection in exigent circumstances, including but not limited to indigency of the parties to the marriage.

(5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this state and a county clerk may charge and accept an agreed upon personal payment not to exceed \$100 plus actual costs for the solemnization of a marriage if that solemnization is performed:

- (a) At a place other than the courthouse where the judicial officer or county clerk serves; or
- (b) Outside of the judicial officer's or county clerk's normal working hours.

(6) The charging and accepting of a personal payment by a judicial officer of this state or a county clerk under subsection (5) of this section does not constitute a violation of any of the provisions of ORS chapter 244.

(7) The amount of actual costs charged by a judicial officer of this state or a county clerk under subsection (5) of this section may not exceed:

- (a) Actual expenses for food and lodging as verified by receipts.

(b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial officer's or county clerk's home or office, whichever is greater, compensated at the rate of reimbursement then provided by the State of Oregon to its employees or, if travel is made by a commercial carrier, reimbursement shall be made of the actual costs thereof, verified by receipts.

(8) A judicial officer of this state or a county clerk shall maintain records of the amount of personal payments received for performing marriages, of actual costs and the supporting documentation related thereto for a period of four years.

(9) The parties to a marriage solemnized by a tax, appellate or circuit judge of this state shall show to the judge proof of payment of the fee required under subsection (4)(a) of this section before solemnization. Except as provided in subsection (4)(d) of this section, the judge may not solemnize a marriage without proof of payment of the fee.

**SECTION 42a.** ORS 106.120, as amended by section 42 of this 2013 Act, is amended to read:

106.120. (1) As used in this section, "judicial officer" means:

(a) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not limited to a judge of a municipal court and a justice of the peace.

(b) An active judge of a federal court.

(c) An active United States magistrate judge.

(2) Marriages may be solemnized by:

(a) A judicial officer;

(b) A county clerk;

(c) Religious congregations or organizations as indicated in ORS 106.150 (2); or

(d) A clergyperson of any religious congregation or organization who is authorized by the congregation or organization to solemnize marriages.

(3) A person authorized to solemnize marriages under subsection (2) of this section may solemnize a marriage anywhere in this state.

(4)(a) When a marriage is solemnized by a tax, appellate or circuit judge of this state, the clerk of the court or the county clerk shall collect a fee of [~~\$105~~] **\$100** and deposit the fee in the Judicial Department Operating Account established in ORS 1.009.

(b) When a marriage is solemnized by a county clerk, the county clerk shall collect a fee of [~~\$105~~] **\$100**, as provided in ORS 205.320.

(c) The fee described in this subsection may be collected only if:

(A) The marriage is solemnized during normal working hours, excluding holidays;

(B) The marriage is solemnized in court facilities or a county clerk's office; or

(C) More than a minimal amount of staff time or other court or county clerk's office resources are used in connection with the solemnization.

(d) The Chief Justice of the Supreme Court or the county clerk may establish a written procedure for waiver of the fee required under this subsection in exigent circumstances, including but not limited to indigency of the parties to the marriage.

(5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this state and a county clerk may charge and accept an agreed upon personal payment not to exceed \$100 plus actual costs for the solemnization of a marriage if that solemnization is performed:

(a) At a place other than the courthouse where the judicial officer or county clerk serves; or  
(b) Outside of the judicial officer's or county clerk's normal working hours.  
(6) The charging and accepting of a personal payment by a judicial officer of this state or a county clerk under subsection (5) of this section does not constitute a violation of any of the provisions of ORS chapter 244.

(7) The amount of actual costs charged by a judicial officer of this state or a county clerk under subsection (5) of this section may not exceed:

(a) Actual expenses for food and lodging as verified by receipts.

(b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial officer's or county clerk's home or office, whichever is greater, compensated at the rate of reimbursement then provided by the State of Oregon to its employees or, if travel is made by a commercial carrier, reimbursement shall be made of the actual costs thereof, verified by receipts.

(8) A judicial officer of this state or a county clerk shall maintain records of the amount of personal payments received for performing marriages, of actual costs and the supporting documentation related thereto for a period of four years.

(9) The parties to a marriage solemnized by a tax, appellate or circuit judge of this state shall show to the judge proof of payment of the fee required under subsection (4)(a) of this section before solemnization. Except as provided in subsection (4)(d) of this section, the judge may not solemnize a marriage without proof of payment of the fee.

**SECTION 43. The amendments to ORS 106.120 by section 42 of this 2013 Act apply to marriages solemnized on or after October 1, 2013.**

**SECTION 43a. The amendments to ORS 106.120 by section 42a of this 2013 Act:**

**(1) Become operative on July 1, 2014.**

**(2) Apply to marriages solemnized on or after July 1, 2014.**

#### **PREVAILING PARTY FEES**

**SECTION 44.** ORS 20.190 is amended to read:

20.190. (1) Except as provided in subsections (2) to (5) of this section, a prevailing party in a civil action or proceeding who has a right to recover costs and disbursements in the following cases also has a right to recover, as a part of the costs and disbursements, the following additional amounts:

(a) In the Supreme Court or Court of Appeals, on an appeal, \$100.

(b) In a circuit court:

(A) When judgment is given without trial of an issue of law or fact or on an appeal, [~~\$60~~] **\$85**;  
or

(B) When judgment is given after trial of an issue of law or fact, [~~\$85~~] **\$105**.

(c) In a small claims department, a county court or justice court[, *one-half of the amount provided for in paragraph (b) of this subsection.*]:

(A) **When judgment is given without trial of an issue of law or fact or on an appeal, \$50**;  
or

(B) **When judgment is given after trial of an issue of law or fact, \$60.**

(2) In lieu of the prevailing party fee provided for in subsection (1) of this section, in any civil action or proceeding in which recovery of money or damages is sought, a prevailing party who has a right to recover costs and disbursements also has a right to recover, as a part of the costs and disbursements, the following additional amounts:

(a) In a circuit court:

(A) When judgment is given without trial of an issue of law or fact, [~~\$275~~] **\$300**; or

(B) When judgment is given after trial of an issue of law or fact, [~~\$550~~] **\$575**.

(b) In a small claims department, a county court or justice court:

(A) When judgment is given without trial of an issue of law or fact, [~~\$93~~] **\$100**; or

(B) When judgment is given after trial of an issue of law or fact, [~~\$108~~] **\$115**.



(3) In addition to the amounts provided for in subsection (2) of this section, in any civil action or proceeding in a circuit court in which recovery of money or damages is sought, the court may award to the prevailing party up to an additional \$5,000 as a prevailing party fee. The court shall consider the following factors in making an award under the provisions of this subsection:

(a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

(b) The objective reasonableness of the claims and defenses asserted by the parties.

(c) The extent to which an award of a larger prevailing party fee in the case would deter others from asserting good faith claims or defenses in similar cases.

(d) The extent to which an award of a larger prevailing party fee in the case would deter others from asserting meritless claims and defenses.

(e) The objective reasonableness of the parties and the diligence of the parties and their attorneys during the proceedings.

(f) The objective reasonableness of the parties and the diligence of the parties in pursuing settlement of the dispute.

(g) Any award of attorney fees made to the prevailing party as part of the judgment.

(h) Such other factors as the court may consider appropriate under the circumstances of the case.

(4) Nonprevailing parties are jointly liable for the prevailing party fees provided for in this section. A court may not award more than one prevailing party fee to a prevailing party under this section, or more than one prevailing party fee against a nonprevailing party regardless of the number of parties in the action, and, upon being paid the amount of the award, the prevailing party may not seek recovery of any additional amounts under the provisions of this section from any other nonprevailing party.

(5) In any appeal from the award or denial of a prevailing party fee under subsection (2) of this section, the court reviewing the award may not modify the decision of the court in making or denying an award, or the decision of the court as to the amount of the award, except upon a finding of an abuse of discretion.

(6) The prevailing party fees provided for in this section may not be awarded in the following proceedings:

(a) A class action proceeding under ORCP 32.

(b) A condemnation proceeding.

(c) Proceedings under the provisions of ORS chapters 25, 107, 108, 109 and 110.

(7) Mandatory arbitration under ORS 36.400 to 36.425 does not constitute a trial of an issue of law or fact for the purposes of this section.

**SECTION 45. The amendments to ORS 20.190 by section 44 of this 2013 Act apply only to actions commenced on or after October 1, 2013.**

## STATE COURT TECHNOLOGY FUND

**SECTION 46. (1) The State Court Technology Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the State Court Technology Fund shall be credited to the fund.**

**(2) All fees received on and after July 1, 2013, for the use of the Oregon Judicial Information Network under ORS 1.002 (6) and for the use of other state court electronic applications and systems shall be deposited into the fund.**

**(3) The fund consists of the moneys deposited into the fund under subsection (2) of this section and the moneys deposited into the fund under section 47 of this 2013 Act.**

**(4) Moneys in the fund are continuously appropriated to the Judicial Department for the purposes of:**

(a) Developing, maintaining and supporting state court electronic applications, services and systems and for providing access to and use of those applications, services and systems; and

(b) Providing electronic service and filing services.

**SECTION 47.** Notwithstanding ORS 21.005, each month the State Court Administrator shall transfer to the State Court Technology Fund 4.75 percent of the fees collected by the State Court Administrator under ORS 21.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 21.235, 46.570, 105.130 and 106.120.

**SECTION 48.** Section 47 of this 2013 Act applies only to fees collected on and after October 1, 2013, and before July 1, 2014.

**SECTION 48a.** Section 47 of this 2013 Act is repealed on July 1, 2014.

#### EXPENDITURE LIMITATIONS

**SECTION 49.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (6), chapter \_\_\_, Oregon Laws 2013 (Enrolled House Bill 5016), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including reimbursements from federal service agreements, but excluding lottery funds and federal funds not described in this section, collected or received by the Judicial Department, is increased by \$550,000 for the purposes described in section 46 (4) of this 2013 Act.

**SECTION 50.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (4), chapter \_\_\_, Oregon Laws 2013 (Enrolled House Bill 5016), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including reimbursements from federal service agreements, but excluding lottery funds and federal funds not described in this section, collected or received by the Judicial Department, is decreased by \$3,459,555.

#### CAPTIONS

**SECTION 51.** The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

#### EMERGENCY CLAUSE

**SECTION 52.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

**Passed by House February 27, 2013**

**Repassed by House July 7, 2013**

.....  
Ramona J. Line, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate July 7, 2013**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

.....  
Kate Brown, Secretary of State