

Enrolled
House Bill 4066

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Judicial Department)

CHAPTER

AN ACT

Relating to funds supporting court technology; creating new provisions; amending ORS 1.002, 1.012, 21.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 21.235, 46.570, 105.130 and 106.120 and section 48, chapter 685, Oregon Laws 2013; repealing sections 38a, 41a, 43a and 48a, chapter 685, Oregon Laws 2013; 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:

FEES FOR USE OF ELECTRONIC NETWORK

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 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 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) Serving documents in an action or proceeding, other than a summons or 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.

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

(j) Electronic transmission and electronic signature on documents relating to circuit court jurors under ORS 10.025.

(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)(a) The Chief Justice may establish **reasonable** fees for the use of the Oregon Judicial Case Information Network, **including fees for electronic access to documents**.

(b)(A) **Before permanently adopting or increasing fees under this subsection, the Chief Justice shall provide notice to interested persons and allow a reasonable opportunity for comment.**

(B) Before temporarily adopting or increasing fees under this subsection, the Chief Justice shall provide notice to interested persons.

(C) The Chief Justice shall by order establish a process for notice and comment under this paragraph.

(c) Fees adopted under this subsection must be reasonably calculated to recover or offset costs of developing, maintaining, supporting or providing access to or use of state court electronic applications and systems.

(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.

REPEAL OF SUNSETS

SECTION 2. Sections 38a, 41a, 43a and 48a, chapter 685, Oregon Laws 2013, are repealed.

FILING FEES

SECTION 3. 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 persons with mental illness 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 4. 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 5. 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 6. 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 7. ORS 21.160 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 8. 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 9. 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 10. 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 11. 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.

WRITS OF GARNISHMENT AND OTHER FEES

SECTION 12. 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.

MARRIAGE SOLEMNIZATION

SECTION 13. 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.

STATE COURT TECHNOLOGY FUND

SECTION 14. ORS 1.012 is amended to read:

1.012. (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 Case 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, chapter 685, Oregon Laws 2013.

(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 15. Section 48, chapter 685, Oregon Laws 2013, is amended to read:

Sec. 48. Section 47, **chapter 685, Oregon Laws 2013**, [of this 2013 Act] applies [only] to fees collected on and after October 1, 2013[, and before July 1, 2014].

CAPTIONS

SECTION 16. The unit captions used in this 2014 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 2014 Act.

EMERGENCY CLAUSE

SECTION 17. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by House March 4, 2014

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 6, 2014

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2014

Approved:

.....M.,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2014

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Kate Brown, Secretary of State