

**TESTIMONY ON SENATE BILL 375
BEFORE THE SENATE JUDICIARY COMMITTEE
FEBRUARY 2, 2015**

PRESENTED BY: JOSHUA NASBE, OFFICE OF THE STATE COURT ADMINISTRATOR

The Oregon Judicial Department requested Senate Bill 375 to provide litigants with the ability to use a declaration under penalty of perjury as an alternative to an affidavit, in specifically identified court filings. Senate Bill 375 will increase the ease by which litigants in general, and self-represented litigants in particular, access the courts. Current law authorizes the use of a declaration under penalty of perjury in a number of circumstances, including situations where an affidavit would otherwise be required under the Oregon Rules of Civil Procedure, the Uniform Trial Court Rules and the Probate Code. Senate Bill 375 applies this existing alternative to areas of the law where self-represented litigants regularly appear before the court. The penalty for filing falsified court documents remains unchanged.

The efficiencies created by Senate Bill 375 are especially pronounced in an electronic court environment where an affidavit hinders the ability of Oregonians to electronically file court documents. Senate Bill 375 will enable the Oregon Judicial Department to develop interactive, question-and-answer forms that can be filed electronically, without first visiting a notary.

Senate Bill 375 applies to five areas of the law where self-represented litigants regularly appear before the court utilizing forms developed by the Oregon Judicial Department: 1) Small claims proceedings; 2) Violation proceedings (eg., traffic tickets); 3) Marriage dissolution proceedings; 4) Annual guardianship reports under the Juvenile Code; and 5) Restraining order proceedings.

Section analysis

Section 1 - Small Claims proceedings: Section 1 allows a small claims action to be commenced utilizing a declaration under penalty of perjury.

Section 2 - Violation proceedings: Section 2 allows testimony in a violation proceeding to be submitted utilizing a declaration under penalty of perjury.

Sections 3 to 10 - Marriage dissolution proceedings: Sections 3 to 10 authorize the use of a declaration under penalty of perjury in marital annulment, dissolution, and separation proceedings. More specifically, those sections apply to:

- Stipulated and default judgments
- Temporary protective orders of restraint, addressing parenting and child custody issues
- Temporary status quo orders, in proceedings to modify child custody judgments
- Temporary custody orders, in proceedings to modify child custody judgments
- Motions seeking waiver of the requirement to engage in mediation, in proceedings to enforce parenting time
- Orders of assistance, authorizing law enforcement to return a child to a custodial parent

- Certifications that Social Security Numbers provided to the court are accurate
- Information required to be submitted to the court in all child custody proceedings

Section 11 - Annual guardianship reports under the Juvenile Code: Section 11 allows guardians, appointed under the juvenile code, to submit annual reports to the court, utilizing a declaration under penalty of perjury.

Sections 12 to 25 - Restraining order proceedings:

- Sections 12 to 16 authorize the use of a declaration under penalty of perjury in proceedings under the Family Abuse Prevention Act (FAPA). The one exception to this rule involves a protected person who moves the court to dismiss a FAPA order. In this context, the protected person must use an affidavit.
- Sections 17 to 20 authorize the use of a declaration under penalty of perjury in proceedings under the Elderly Persons and Persons with a Disability Abuse Prevention Act (EPDAPPA). The one exception to this rule involves a protected person who moves the court to dismiss an EPDAPPA order. In this context, the protected person must use an affidavit.
- Sections 21 to 25 authorize the use of a declaration under penalty of perjury in Sexual Abuse Protective Order (SAPO) proceedings. The one exception to this rule involves a protected person who moves the court to dismiss a SAPO order. In this context, the protected person must use an affidavit.

Sections 26 and 27 - Implementation: Sections 26 and 27 contain an emergency clause, make the amendments operative September 1, 2015, and authorize the State Court Administrator to take actions necessary to implement the amendments before that date.

Thank you for your time and for considering our proposal.