

D R A F T

SUMMARY

Deletes obsolete references to terms of court and constables. Repeals outdated laws governing damages for Y2K computer failures. Repeals outdated law governing enforcement of child support judgments.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; amending ORS 1.110, 1.120, 1.655,
3 3.075, 8.225, 18.180, 18.182, 34.200, 34.710, 137.060 and 180.080, section 45,
4 chapter 576, Oregon Laws 2003, and ORCP 9 F, 10 A and 10 C; repealing
5 ORS 1.055, 3.232, 3.235, 18.192, 30.655, 30.656, 30.658, 30.660, 30.661, 30.662,
6 30.664, 30.665, 51.440, 51.450, 51.460, 51.470, 51.480, 51.490, 51.500, 51.540,
7 51.550 and 202.300 and ORCP 10 B; and declaring an emergency.

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

9 **SECTION 1. This 2015 Act is prepared pursuant to section 1, chapter**
10 **101, Oregon Laws 2014.**

11 **SECTION 2. ORS 1.055 is repealed.**

12 **NOTE:** Repeals obsolete references to terms of court.

13 **SECTION 3. ORS 3.232 and 3.235 are repealed.**

14 **NOTE:** Repeals obsolete references to terms of court.

15 **SECTION 4. ORCP 10 B is repealed.**

16 **NOTE:** Repeals obsolete references to terms of court.

17 **SECTION 5. ORS 202.300 is repealed.**

18 **NOTE:** Repeals obsolete references to terms of court.

19 **SECTION 6. ORCP 10 C is amended to read:**

20 **[C] B Additional time after service by mail. Except for service of sum-**

1 mons, whenever a party has the right or is required to do some act or take
2 some proceedings within a prescribed period after the service of a notice or
3 other paper upon such party and the notice or paper is served by mail, 3 days
4 shall be added to the prescribed period.

5 **NOTE:** Reletters section due to repeal of ORCP 10 B.

6 **SECTION 7.** ORCP 9 F is amended to read:

7 **F Service by telephonic facsimile communication device.** Whenever under
8 these rules service is required or permitted to be made upon a party, and that
9 party is represented by an attorney, the service may be made upon the at-
10 torney by means of a telephonic facsimile communication device if the at-
11 torney maintains such a device at the attorney's office and the device is
12 operating at the time service is made. Service in this manner shall be
13 equivalent to service by mail for purposes of Rule 10 [C] **B.**

14 **NOTE:** Conforming amendment for repeal of ORCP 10 B.

15 **SECTION 8.** ORCP 10 A is amended to read:

16 **A Computation.** In computing any period of time prescribed or allowed
17 by these rules, by the local rules of any court or by order of court, the day
18 of the act, event, or default from which the designated period of time begins
19 to run shall not be included. The last day of the period so computed shall
20 be included, unless it is a Saturday or a legal holiday, including Sunday, in
21 which event the period runs until the end of the next day which is not a
22 Saturday or a legal holiday. If the period so computed relates to serving a
23 public officer or filing a document at a public office, and if the last day falls
24 on a day when that particular office is closed before the end of or for all of
25 the normal work day, the last day shall be excluded in computing the period
26 of time within which service is to be made or the document is to be filed,
27 in which event the period runs until the close of office hours on the next
28 day the office is open for business. When the period of time prescribed or
29 allowed (without regard to section [C] **B** of this rule) is less than 7 days,
30 intermediate Saturdays and legal holidays, including Sundays, shall be ex-
31 cluded in the computation. As used in this rule, "legal holiday" means legal

1 holiday as defined in ORS 187.010 and 187.020. This section does not apply
2 to any time limitation governed by ORS 174.120.

3 **NOTE:** Conforming amendment for repeal of ORCP 10 B.

4 **SECTION 9.** ORS 1.110 is amended to read:

5 1.110. If no judge attend on the day appointed for holding a court, before
6 4 p.m., the court shall stand adjourned until the next day at 9 a.m. [*In case*
7 *a judge is unable to attend at the time provided by law for a regular term of*
8 *court, or at the time specified for a special term, the judge may by an order*
9 *made and signed anywhere in the district of the judge postpone such regular*
10 *or special term until some future time.*]

11 **NOTE:** Deletes obsolete references to terms of court.

12 **SECTION 10.** ORS 1.120 is amended to read:

13 1.120. No action, suit or proceeding pending in a court of justice is af-
14 fected by a vacancy in the office of any or all of the judges[, *or by the failure*
15 *of a term thereof*].

16 **NOTE:** Deletes obsolete references to terms of court.

17 **SECTION 11.** ORS 1.655 is amended to read:

18 1.655. (1) It is the duty of a judge pro tempore appointed as provided in
19 ORS 1.635 to hear, decide and dispose of all cases and matters submitted to
20 the judge pro tempore as promptly as the nature of the questions involved
21 will permit. The powers, jurisdiction and judicial authority of the judge pro
22 tempore in respect to any case or matter tried or heard by the judge pro
23 tempore while serving under the appointment shall continue beyond the ex-
24 piration of the appointment so far as may be necessary to:

25 (a) Decide and dispose of any case or matter on trial or held under
26 advisement.

27 (b) Hear and decide any motion for a new trial or for a judgment not-
28 withstanding a verdict, or objections to any cost bill, that may be filed in
29 the case.

30 (c) Settle a transcript for appeal and grant extensions of time therefor.

31 (2) The Supreme Court at any time by order may:

1 (a) Extend the term of appointment of a judge pro tempore appointed as
2 provided in ORS 1.635.

3 (b) Terminate the term of appointment of a judge pro tempore appointed
4 as provided in ORS 1.635 as of a date specified in the order; but termination
5 does not affect the validity of any judgment, order or other action of the
6 judge pro tempore prior to the effective date of the termination.

7 (3) A judge pro tempore of a circuit court appointed as provided in ORS
8 1.635 is not eligible to appear as attorney in that court in any case tried by
9 a jury [*at the same term of court during which*] **during the time** the judge
10 pro tempore served as judge pro tempore.

11 **NOTE:** Deletes obsolete references to terms of court.

12 **SECTION 12.** ORS 3.075 is amended to read:

13 3.075. If two or more persons are sitting as judges of the circuit court in
14 a judicial district:

15 (1) Any two or more of them may act in joint session for the trial or de-
16 termination of any cause, matter or proceeding before the court in the judi-
17 cial district, including jury cases. If the judges acting in joint session are
18 equally divided in opinion, the opinion of the presiding judge prevails; oth-
19 erwise the decision of the majority prevails.

20 (2) Each of them may proceed separately with and try, simultaneously in
21 the judicial district [*and during the same term*], all causes, matters and pro-
22 ceedings brought before the court.

23 (3) Process may be tested in the name of any of them.

24 **NOTE:** Deletes obsolete references to terms of court.

25 **SECTION 13.** ORS 8.225 is amended to read:

26 8.225. (1) The trial court administrator for a judicial district has the du-
27 ties, powers and functions prescribed by law or by rules of the circuit courts
28 in the district.

29 (2) A trial court administrator shall, for each court served by the officer:

30 (a) Keep the seal of the court, and affix it in all cases required by law.

31 (b) Record the proceedings of the court.

1 (c) Maintain the records, files, books and other documents pertaining to
2 the court.

3 (d) File all documents delivered to the trial court administrator in any
4 action or proceeding in the court.

5 (e) Attend [*the terms of*] the court, administer oaths and receive the ver-
6 dict of a jury in any action or proceeding therein, in the presence and under
7 the direction of the court.

8 (f) Under the direction of the court enter its orders and judgments.

9 (g) Authenticate, by certificate or transcript, as may be required, the re-
10 cords, files or proceedings of the court, or any document pertaining thereto,
11 and filed with the officer.

12 (h) In the performance of duties pertaining to the court, conform to the
13 direction of the court.

14 (3) A trial court administrator may take and certify the proof and ac-
15 knowledgment of a conveyance of real property or any other written instru-
16 ment authorized or required to be proved or acknowledged.

17 (4) A trial court administrator may delegate powers of the office of trial
18 court administrator to employees of the trial court administrator.

19 (5) A trial court administrator shall designate a person to act as tran-
20 script coordinator for the court.

21 **NOTE:** Deletes obsolete references to terms of court.

22 **SECTION 14.** ORS 34.200 is amended to read:

23 34.200. [(1) *In the circuit court or Oregon Tax Court the writ may be made*
24 *returnable either in term time or vacation, and if the latter, may be tried and*
25 *determined before the judge in like manner and with like effect as in term*
26 *time.*]

27 [(2)] In the Supreme Court the writ may be allowed by the court or any
28 judge thereof, but shall only be tried and determined by the court. All issues
29 therein shall be tried by the court.

30 **NOTE:** Deletes obsolete references to terms of court.

31 **SECTION 15.** ORS 34.710 is amended to read:

1 34.710. Any party to a proceeding by habeas corpus, including the state
2 when the district attorney appears therein, may appeal from the judgment
3 of the court refusing to allow such writ or any judgment therein, [*either in*
4 *term time or vacation,*] in like manner and with like effect as in an action.
5 No question once finally determined upon a proceeding by habeas corpus
6 shall be reexamined upon another proceeding of the same kind.

7 **NOTE:** Deletes obsolete references to terms of court.

8 **SECTION 16.** ORS 137.060 is amended to read:

9 137.060. The bench warrant shall be substantially in the following form:

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CIRCUIT COURT
FOR THE COUNTY OF
_____, STATE OF OREGON
IN THE NAME OF
THE STATE OF OREGON

17

To any peace officer in the State of Oregon, greeting:

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A B having been on the _____ day of _____, 2____, convicted in this
court of the crime of (designating it generally), you are commanded to arrest
the above-named defendant forthwith and bring the defendant before such
court for judgment or, if the court has adjourned [*for the term*], deliver the
defendant into the custody of the jailor of this county. By order of the court.

23

24

Witness my hand and seal of said circuit court, affixed at _____, in
said county, this _____ day of _____, 2_____.

25

[L. S.]

26

C D, Clerk of the Court

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NOTE: Deletes obsolete references to terms of court.

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SECTION 17. ORS 180.080 is amended to read:

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180.080. When directed by the Governor, the Attorney General shall at-
tend in person, or by one of the assistants of the Attorney General, [*any term*

1 of] in any court, or appear before the grand jury in any county, for the
2 purpose of managing and conducting in such court, or before such jury, the
3 criminal action or proceeding specified in the requirement. The Attorney
4 General, or the assistant of the Attorney General so attending, shall exercise
5 all the powers and perform all the duties in respect of the action or pro-
6 ceeding which the district attorney would otherwise be authorized to exer-
7 cise or perform. The district attorney shall only exercise such powers and
8 perform such duties in the action or proceeding as are required of the dis-
9 trict attorney by the Attorney General, or the assistant of the Attorney
10 General so attending.

11 **NOTE:** Deletes obsolete references to terms of court.

12 **SECTION 18. ORS 30.655, 30.656, 30.658, 30.660, 30.661, 30.662, 30.664**
13 **and 30.665 are repealed.**

14 **NOTE:** Repeals outdated laws regulating actions for damages caused by
15 computer date failure in the year 2000 (commonly known as Y2K).

16 **SECTION 19. ORS 51.440, 51.450, 51.460, 51.470, 51.480, 51.490, 51.500,**
17 **51.540 and 51.550 are repealed.**

18 **NOTE:** Repeals laws on appointment of constables for justice of the peace
19 districts. There are no longer any constables in Oregon.

20 **SECTION 20. (1) ORS 18.192 is repealed.**

21 **(2) The repeal of ORS 18.192 by this section does not operate to re-**
22 **vive the judgment lien of any judgment that expired before the effec-**
23 **tive date of this 2015 Act.**

24 **NOTE:** Repeals outdated law on enforcement of child support judgments.
25 All child support judgments are now enforceable for 35 years. See ORS 18.180
26 (5). Specifies that the repeal does not revive any judgment that expired be-
27 fore the effective date of this 2015 Act.

28 **SECTION 21. Section 45, chapter 576, Oregon Laws 2003, is amended to**
29 **read:**

30 **Sec. 45.** (1) Except as provided by this section or by [*sections 1 to 44 of*
31 *this 2003 Act, sections 1 to 44 of this 2003 Act apply*] **ORS chapter 18, ORS**

1 **chapter 18 applies** only to judgments entered on or after [*the effective date*
2 *of this 2003 Act*] **January 1, 2004**. Nothing in [*this 2003 Act*] **chapter 576,**
3 **Oregon Laws 2003,** affects the validity, lien effect or enforceability of any
4 judgment or decree entered before [*the effective date of this 2003 Act*] **Janu-**
5 **ary 1, 2004**. Nothing in [*this 2003 Act*] **chapter 576, Oregon Laws 2003,** af-
6 fects the validity, lien effect or enforceability of any order or warrant
7 docketed or recorded before [*the effective date of this 2003 Act*] **January 1,**
8 **2004**. Except as provided by this section or [*sections 1 to 44 of this 2003*
9 *Act*] **ORS chapter 18,** any judgment or decree entered before [*the effective*
10 *date of this 2003 Act*] **January 1, 2004,** and any order or warrant docketed
11 or recorded before [*the effective date of this 2003 Act*] **January 1, 2004,** shall
12 continue to be governed by the law in effect on the day immediately pre-
13 ceding [*the effective date of this 2003 Act*] **January 1, 2004**.

14 (2) [*Section 12 of this 2003 Act*] **ORS 18.107** applies to any corrected
15 judgment entered on or after [*the effective date of this 2003 Act*] **January 1,**
16 **2004,** without regard to whether the original judgment is entered before, on
17 or after [*the effective date of this 2003 Act*] **January 1, 2004**.

18 (3) A judgment creditor may create a judgment lien for a judgment in a
19 county other than the county in which a judgment is entered in the manner
20 provided by [*section 15 of this 2003 Act*] **ORS 18.152** without regard to
21 whether the judgment is entered before, on or after [*the effective date of this*
22 *2003 Act*] **January 1, 2004**.

23 (4) [*Section 17 of this 2003 Act*] **ORS 18.158** applies to all judgments,
24 whether entered before, on or after [*the effective date of this 2003 Act*] **Jan-**
25 **uary 1, 2004**.

26 (5) Except as provided in [*sections 21 and 22 of this 2003 Act, sections 18*
27 *and 19 of this 2003 Act*] **ORS 18.190, ORS 18.180 and 18.182** apply to all
28 judgments, whether entered before, on or after [*the effective date of this 2003*
29 *Act*] **January 1, 2004**. Notwithstanding [*section 19 of this 2003 Act*] **ORS**
30 **18.182,** any order of renewal entered before [*the effective date of this 2003*
31 *Act*] **January 1, 2004,** may be recorded in the manner provided by [*section*

1 19 (6) of this 2003 Act] **ORS 18.182 (6)** with the effect provided by [section
2 15 (4) of this 2003 Act] **ORS 18.152 (4)**.

3 (6) [Section 23 of this 2003 Act] **ORS 18.200** applies to the release of any
4 judgment lien after [the effective date of this 2003 Act] **January 1, 2004**,
5 without regard to whether the judgment was entered before, on or after [the
6 effective date of this 2003 Act] **January 1, 2004**.

7 (7) [Section 24 of this 2003 Act] **ORS 18.205** applies to the assignment of
8 any judgment after [the effective date of this 2003 Act] **January 1, 2004**,
9 without regard to whether the judgment was entered before, on or after [the
10 effective date of this 2003 Act] **January 1, 2004**.

11 (8) [Section 25 of this 2003 Act] **ORS 18.225** applies to any satisfaction of
12 judgment filed with a court on or after [the effective date of this 2003 Act]
13 **January 1, 2004**, without regard to whether the judgment was entered be-
14 fore, on or after [the effective date of this 2003 Act] **January 1, 2004**.

15 (9) [Sections 26 and 27 of this 2003 Act] **ORS 18.228 and 18.232** apply to
16 all judgments, whether entered before, on or after [the effective date of this
17 2003 Act] **January 1, 2004**.

18 (10) [Section 28 of this 2003 Act] **ORS 18.235** applies to any motion for an
19 order declaring that a money award has been satisfied, or to determine the
20 amount necessary to satisfy a money award, filed with a court on or after
21 [the effective date of this 2003 Act] **January 1, 2004**, without regard to
22 whether the judgment was entered before, on or after [the effective date of
23 this 2003 Act] **January 1, 2004**.

24 (11) [Sections 29 and 30 of this 2003 Act] **ORS 18.252 and 18.255** apply to
25 execution on any judgment, without regard to whether the judgment was
26 entered before, on or after [the effective date of this 2003 Act] **January 1,**
27 **2004**.

28 (12) [Sections 31 and 32 of this 2003 Act] **ORS 18.265 and 18.268** apply to
29 any motion for a debtor examination made on or after [the effective date of
30 this 2003 Act] **January 1, 2004**, without regard to whether the judgment was
31 entered before, on or after [the effective date of this 2003 Act] **January 1,**

1 **2004.**

2 (13) [Section 33 of this 2003 Act] **ORS 18.270** applies to any written
3 interrogatories served on or after [the effective date of this 2003 Act] **January**
4 **1, 2004**, without regard to whether the judgment was entered before, on or
5 after [the effective date of this 2003 Act] **January 1, 2004.**

6 (14) [Sections 34 to 44 of this 2003 Act] **ORS 18.465 to 18.476 and 18.492**
7 **to 18.518 (both 2003 Edition)** apply to any writ of execution issued on or
8 after [the effective date of this 2003 Act] **January 1, 2004**, without regard to
9 whether the judgment was entered before, on or after [the effective date of
10 this 2003 Act] **January 1, 2004.**

11 **NOTE:** Conforming amendment for repeal of ORS 18.192.

12 **SECTION 22.** ORS 18.180 is amended to read:

13 18.180. (1) Judgment remedies for a judgment expire upon full satisfaction
14 of the money award portion of the judgment.

15 (2) If a judgment lien arises out of a support award under ORS 18.150 (3)
16 or 18.152 (3), a support arrearage lien attaching to real property under the
17 judgment lien expires upon satisfaction of the unpaid installment that gave
18 rise to the support arrearage lien.

19 (3) Except as provided in ORS 18.180 to 18.192, judgment remedies for a
20 judgment in a civil action expire 10 years after the entry of the judgment.

21 (4) Except as provided in this subsection, judgment remedies for a judg-
22 ment in a criminal action expire 20 years after the entry of the judgment.
23 Judgment remedies for a judgment in a criminal action that includes a
24 money award for restitution expire 50 years after the entry of the judgment.

25 (5) [Except as provided in ORS 18.192,] Judgment remedies for the child
26 support award portion of a judgment, and any lump sum support award for
27 child support, expire 35 years after the entry of the judgment that first es-
28 tablishes the support obligation.

29 (6)(a) Except as provided by paragraph (b) of this subsection and ORS
30 18.190, judgment remedies for any unpaid installment under the spousal sup-
31 port award portion of a judgment, including any installment arrearage lien

1 arising under the judgment, expire 25 years after the entry of the judgment
2 that first establishes the support obligation, or 10 years after an installment
3 comes due under the judgment and is not paid, whichever is later.

4 (b) The judgment lien for the spousal support award portion of a judgment
5 that is entered on or after January 1, 2004, including any installment
6 arrearage lien arising under the judgment, expires 25 years after the entry
7 of the judgment that first establishes the support obligation unless a certif-
8 icate of extension is filed under ORS 18.185.

9 (7)(a) If a money award in a judgment under ORS 107.105 (1)(f) provides
10 for a future payment of money, judgment remedies for the portion of the
11 judgment providing for future payment expire 10 years after the date on
12 which the future payment becomes due. At any time before the judgment
13 remedies for a money award described in this subsection expire, judgment
14 remedies for the portion of the judgment providing for a future payment may
15 be extended as provided in ORS 18.182.

16 (b) This subsection does not apply to support awards.

17 (8) This section does not apply to justice courts, municipal courts or
18 county courts performing judicial functions.

19 **NOTE:** Conforming amendment for repeal of ORS 18.192.

20 **SECTION 23.** ORS 18.182 is amended to read:

21 18.182. (1) Judgment remedies for a judgment may be extended by filing
22 a certificate of extension in the court that entered the judgment. The court
23 administrator shall enter the certificate in the register of the court and in
24 the judgment lien record. Except as provided in ORS 18.180 to 18.192, a
25 judgment creditor may file a certificate of extension only if:

26 (a) Judgment remedies for the judgment have not expired under ORS
27 18.180; and

28 (b) A full satisfaction document for the money award portion of the
29 judgment has not been filed.

30 (2) Notwithstanding subsection (1) of this section, if the judgment debtor
31 has been discharged from debt under federal bankruptcy laws, a certificate

1 of extension may not be filed except as provided in this subsection. Judg-
2 ments are presumed to have not been discharged in bankruptcy until the
3 judgment debtor establishes that the judgment has been discharged. If the
4 judgment debtor is discharged from a debt, a certificate of extension may be
5 filed if:

6 (a) The debtor owned real property and the judgment lien attached to that
7 property before the filing of the bankruptcy petition;

8 (b) The judgment lien was not avoided by action of the bankruptcy court;

9 (c) The judgment lien has not been discharged under ORS 18.238; and

10 (d) The certificate of extension includes a legal description of the real
11 property and a statement that the extension affects only the lien on the real
12 property described in the certificate.

13 (3) A certificate of extension must be signed by the judgment creditor, or
14 by an attorney who represents the judgment creditor.

15 (4) Subject to ORS 18.190 [*and 18.192*], if a certificate of extension is filed
16 after the date on which the judgment remedies for the judgment expire under
17 ORS 18.180, the certificate has no effect.

18 (5) The judgment remedies for a judgment that are extended under the
19 provisions of this section expire 10 years after the certificate of extension
20 is filed. Judgment remedies for a judgment may be extended only once under
21 the provisions of this section.

22 (6) A certified copy of a certificate of extension, or a lien record abstract
23 for the certificate, may be recorded in any county in which the judgment
24 was recorded under ORS 18.152, with the effect provided by ORS 18.152 (4).

25 (7) Except as provided in ORS 18.185[,] **and** 18.190 [*and 18.192*], the judg-
26 ment remedies for the support award portion of a judgment, and any lump
27 sum money award for unpaid child support installments, may not be extended
28 under this section.

29 (8) The judgment remedies for a judgment in a criminal action may not
30 be extended under this section.

31 (9) This section does not apply to justice courts, municipal courts or

1 county courts performing judicial functions.

2 **NOTE:** Conforming amendment for repeal of ORS 18.192.

3 **SECTION 24. This 2015 Act being necessary for the immediate**
4 **preservation of the public peace, health and safety, an emergency is**
5 **declared to exist, and this 2015 Act takes effect on its passage.**

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