

STAFF MEASURE SUMMARY**House Committee On Judiciary****Fiscal:** Has minimal fiscal impact**Revenue:** Revenue impact issued**Action Date:** 04/21/15**Action:** Do Pass As Amended, Be Printed Engrossed, And Bill Be Referred To Revenue.**Meeting Dates:** 04/21**Vote:**

Yeas: 8 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Post, Williamson

Nays: 1 - Sprenger

Prepared By: Channa Newell, Counsel**WHAT THE MEASURE DOES:**

Creates process for taking perpetuation deposition of material witness. Specifies requirements of petition. Directs court to grant or deny petition within 30 days of filing. Allows specification of deposition. Applies Oregon Evidence Code to deposition. Specifies that deposition does not invalidate material witness order, but may be considered in connection with application to vacate or modify order. Increases fees charged by Justice of Peace courts.

ISSUES DISCUSSED:

- Material witness process
- Material witness held for more than 900 days in Washington County
- Perpetuation depositions in other legal actions
- Negotiated increase in justice court fees

EFFECT OF COMMITTEE AMENDMENT:

Increases fee amounts charged by justice courts for various filings. Creates perpetuation deposition for material witnesses.

BACKGROUND:

Recent news reports have brought to light the extended period of time in which a material witness may be held in custody. A material witness is a person who is wanted as a witness in a criminal case who possesses information material to the determination of the action and who will not appear when attendance is required. Upon finding that a person is a material witness, the court may order a security amount to be posted to secure future attendance, or the court may take the witness into custody. If a witness is held in a detention facility, the witness is paid \$7.50 for each day of confinement.

House Bill 2316 A creates a process for taking the deposition testimony of a material witness. The petition for deposition must be granted or denied within 30 days of filing. The amendment specifies that the deposition of a material witness does not invalidate or otherwise affect the material witness order, but may be considered in connection with an application to vacate or modify an order.

Additionally, House Bill 2316 A increases a variety of fees charged by a Justice of the Peace. For example, the first appearance of the parties will increase from \$40 to \$90. Fees for filing a small claim will increase from \$28 to \$35 in 2015, and from \$35 to \$37 in 2018. Small fees for taking affidavits or taking depositions are removed. Trial fees for small claims trials are prohibited. Other trial fees are increased to \$100 per day, payable by the plaintiff.