

# C-Engrossed House Bill 2316

Ordered by the Senate June 12  
Including House Amendments dated April 27 and May 21 and Senate  
Amendments dated June 12

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

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Increases certain fees charged by justice courts. Provides that trial fee may not be charged in small claims department of justice court.

Allows court to order, or district attorney or defendant to file petition to conduct, deposition to perpetuate testimony of material witness.

**Provides that party to proceeding in open court in justice or municipal court may arrange for recording or reporting of proceeding.**

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to courts; creating new provisions; amending ORS 51.310, 52.410, 53.090 and 55.130; re-  
3 pealing sections 1, 2, 3, 4 and 5, chapter \_\_\_, Oregon Laws 2015 (Enrolled House Bill 3399); de-  
4 claring an emergency; and providing for revenue raising that requires approval by a three-fifths  
5 majority.

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

7 **SECTION 1.** ORS 51.310 is amended to read:

8 51.310. (1) Except as provided in ORS 105.130, the justice of the peace shall collect, in advance  
9 except in criminal cases, and issue receipts for, the following fees:

10 (a) For the first appearance of the plaintiff, [~~\$40~~] **\$90**.

11 (b) For the first appearance of the defendant, [~~\$40~~] **\$90**.

12 (c) In the small claims department, for a plaintiff filing a claim, [~~\$28~~] **\$35**; and for a defendant  
13 requesting a hearing, [~~\$28~~] **\$35**.

14 (d) For transcript of judgment, [~~\$6~~] **\$9**.

15 (e) For transcript of judgment from the small claims department, [~~\$6~~] **\$9**.

16 (f) For certified copy of judgment, [~~\$6~~] **\$9**.

17 (g) For issuing writs of execution or writs of garnishment, [~~\$6~~] **\$20** for each writ.

18 [*(h) For taking an affidavit of a private party, \$1.*]

19 [*(i) For taking depositions, for each folio, 70 cents.*]

20 **(h) For issuing notices of restitution as provided in ORS 105.151, \$10 for each notice.**

21 **(i) For filing a motion described in ORS 21.200 in an action not in the small claims de-**  
22 **partment, \$30.**

23 (j) For supplying to private parties copies of records and files, the same fees as provided or es-  
24 tablished for the county clerk under ORS 205.320.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (k) For each official certificate, [~~\$1~~] **\$10**.

2 (L) For taking and certifying for a private party an acknowledgment of proof of any instrument,  
3 [~~\$3~~] **\$10**.

4 (m) Costs in criminal cases, where there has been a conviction, or upon forfeiture of security,  
5 \$5.

6 (2) Not later than the last day of the month immediately following the month in which fees set  
7 forth in subsection (1) of this section are collected, the justice of the peace shall pay all such fees,  
8 other than those for performing marriage ceremonies, over to the county treasurer of the county  
9 wherein the justice of the peace was elected or appointed, for crediting to the general fund of the  
10 county, and shall take the receipt of the treasurer therefor.

11 **SECTION 2.** ORS 51.310, as amended by section 1 of this 2015 Act, is amended to read:

12 51.310. (1) Except as provided in ORS 105.130, the justice of the peace shall collect, in advance  
13 except in criminal cases, and issue receipts for, the following fees:

14 (a) For the first appearance of the plaintiff, \$90.

15 (b) For the first appearance of the defendant, \$90.

16 (c) In the small claims department, for a plaintiff filing a claim, [~~\$35~~] **\$37**; and for a defendant  
17 requesting a hearing, [~~\$35~~] **\$37**.

18 (d) For transcript of judgment, \$9.

19 (e) For transcript of judgment from the small claims department, \$9.

20 (f) For certified copy of judgment, \$9.

21 (g) For issuing writs of execution or writs of garnishment, \$20 for each writ.

22 (h) For issuing notices of restitution as provided in ORS 105.151, \$10 for each notice.

23 (i) For filing a motion described in ORS 21.200 in an action not in the small claims department,  
24 \$30.

25 (j) For supplying to private parties copies of records and files, the same fees as provided or es-  
26 tablished for the county clerk under ORS 205.320.

27 (k) For each official certificate, \$10.

28 (L) For taking and certifying for a private party an acknowledgment of proof of any instrument,  
29 \$10.

30 (m) Costs in criminal cases, where there has been a conviction, or upon forfeiture of security,  
31 \$5.

32 (2) Not later than the last day of the month immediately following the month in which fees set  
33 forth in subsection (1) of this section are collected, the justice of the peace shall pay all such fees,  
34 other than those for performing marriage ceremonies, over to the county treasurer of the county  
35 wherein the justice of the peace was elected or appointed, for crediting to the general fund of the  
36 county, and shall take the receipt of the treasurer therefor.

37 **SECTION 3. The amendments to ORS 51.310 by section 2 of this 2015 Act become opera-**  
38 **tive on January 1, 2018, and apply only to claims filed and hearings requested on or after**  
39 **January 1, 2018.**

40 **SECTION 4.** ORS 52.410 is amended to read:

41 52.410. (1) Parties to judicial proceedings in justice courts are required to contribute toward the  
42 expense of maintaining justice courts, or a particular action or proceeding therein, by the payment  
43 of a trial fee, **except that a trial fee may not be required for a hearing or trial in the small**  
44 **claims department of a justice court.**

45 [*(2) The trial fee in a justice court, for every trial by jury, is \$17.*]

1 (2) The trial fee in a justice court for a trial by jury is \$125 for each full or partial day  
2 of trial, payable by the party demanding the jury trial at the time the demand is made.

3 (3) The trial fee in a justice court for a trial without a jury is \$75 for each full or partial  
4 day of trial, payable by the plaintiff when the action or proceeding is set for trial.

5 (4) If a trial continues beyond the number of days originally paid for under subsection (2)  
6 or (3) of this section, the fee for subsequent days of trial must be paid in advance of each  
7 day the trial continues by the party responsible for the fee under subsection (2) or (3) of this  
8 section.

9 **SECTION 5.** ORS 55.130 is amended to read:

10 55.130. (1) If no appeal is taken by a party against whom a judgment to make payment is ren-  
11 dered and the party fails to pay the judgment according to the terms and conditions thereof, the  
12 justice of the peace before whom the hearing was had, may, on application of the prevailing party,  
13 certify the judgment in substantially the following form:

14 \_\_\_\_\_  
15  
16 In the Justice Court for \_\_\_\_\_ District, \_\_\_\_\_ County, Oregon.  
17 \_\_\_\_\_  
18 Plaintiff,  
19 vs.  
20 \_\_\_\_\_  
21 Defendant.

22 In the Small Claims Department

23 This is to certify that in a certain action before me, the undersigned, had on this, the \_\_\_\_\_  
24 day of \_\_\_\_\_, 2\_\_\_, wherein \_\_\_\_\_ was plaintiff and \_\_\_\_\_ was defendant, juris-  
25 diction of the defendant having been had by personal service (or otherwise), as provided by law, I  
26 then and there entered judgment against the (defendant or plaintiff) in the sum of \_\_\_\_\_ dollars,  
27 which judgment has not been paid.

28 Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_.

29 \_\_\_\_\_  
30 Justice of the Peace  
31 Sitting in the Small  
32 Claims Department.  
33 \_\_\_\_\_

34  
35 (2) Upon the payment of a fee of [\$5] **\$9**, the justice of the peace shall forthwith enter the  
36 judgment transcript on the docket of the justice court. Thereafter execution and other process on  
37 execution provided by law may issue thereon as in other cases of judgments of justice courts, and  
38 transcripts of the judgments may be filed and entered in judgment dockets in circuit courts with like  
39 effect as in other cases.

40 **SECTION 6.** The amendments to ORS 51.310, 52.410 and 55.130 by sections 1, 4 and 5 of  
41 this 2015 Act apply only to proceedings commenced or services provided on or after October  
42 1, 2015.

43 **SECTION 7.** (1) As used in this section, "material witness order" has the meaning given  
44 that term in ORS 136.608.

45 (2) At any time after the court enters a material witness order, the court may order, or

1 the district attorney or the defendant may file a petition to conduct, a deposition to perpet-  
2 uate the testimony of the material witness.

3 (3)(a) The petition must be in writing and sworn to by the petitioner.

4 (b) The petitioner shall serve a notice and a copy of the petition on the opposing party  
5 and on the material witness.

6 (4) A petition filed under this section must describe:

7 (a) The basis on which the court entered the material witness order;

8 (b) Any findings made by the court in establishing the security amount under ORS  
9 136.612;

10 (c) Any findings made by the court in detaining the material witness; and

11 (d) The reasons that perpetuating the testimony of the material witness is necessary.

12 (5) The court shall grant or deny the petition no later than 30 days after the date the  
13 petition is filed. The court shall consider whether the perpetuation of the testimony will  
14 prevent failure or delay of justice for the parties and the material witness. If the court or-  
15 ders the deposition of the material witness, the court may specify the subject matter of the  
16 deposition, impose limitations on the deposition and require audio or video recording of the  
17 deposition.

18 (6) The deposition of a material witness under this section does not invalidate or other-  
19 wise affect the material witness order, but may be considered in connection with an appli-  
20 cation to vacate or modify the order under ORS 136.612 (5).

21 (7) The Oregon Evidence Code applies to depositions under this section.

22 **SECTION 8.** (1) In any proceeding conducted in open court in a justice court, any party  
23 may arrange for audio recording or reporting of the proceeding by stenographic or other  
24 means. The court may not prohibit recording or reporting of the proceeding under this sec-  
25 tion.

26 (2) A reporter providing stenographic reporting services under this section must be cer-  
27 tified in shorthand reporting under ORS 8.415 to 8.455 or by a nationally recognized certi-  
28 fication program. A party arranging for reporting of the proceeding by stenographic means  
29 must provide the court with the name of the reporter and an address and telephone number  
30 where the reporter may be contacted.

31 (3) If all parties to the proceeding and the court agree, the audio recording or steno-  
32 graphic or other reporting of the proceeding arranged under this section may be used by the  
33 parties during the proceeding.

34 (4) If all parties to the proceeding and the court agree, the audio recording or steno-  
35 graphic or other reporting of the proceeding arranged under this section is the official record  
36 of the proceeding.

37 (5) Unless other parties agree to pay all or part of the cost of the audio recording or  
38 stenographic or other reporting of the proceeding, the party arranging for the recording or  
39 reporting must pay all costs of the recording or reporting.

40 **SECTION 9.** ORS 53.090 is amended to read:

41 53.090. Within 30 days next following the allowance of the appeal, the appellant must cause to  
42 be filed with the clerk of the appellate court a transcript of the cause. The transcript must contain  
43 a copy of all the material entries in the justice docket relating to the cause or the appeal **and any**  
44 **transcript or audio record made under section 8 of this 2015 Act**, and must have annexed  
45 thereto all the original papers relating to the cause or the appeal and filed with the justice. Upon

1 the filing of the transcript with the clerk of the appellate court, the appeal is perfected. Thenceforth  
2 the action shall be deemed pending and for trial therein as if originally commenced in such court,  
3 and the court shall have jurisdiction of the cause and shall proceed to hear, determine and try it  
4 anew, disregarding any irregularity or imperfection in matters of form which may have occurred in  
5 the proceedings in the justice court. If the transcript and papers are not filed with the clerk of the  
6 appellate court within the time provided, the appellate court, or the judge thereof, may by order  
7 extend the time for filing the same upon such terms as the court or judge may deem just. However,  
8 such order shall be made within the time allowed to file the transcript.

9 **SECTION 10. Section 11 of this 2015 Act is added to and made a part of ORS chapter 221.**

10 **SECTION 11. (1) In any proceeding conducted in open court in a municipal court, any**  
11 **party may arrange for audio recording or reporting of the proceeding by stenographic or**  
12 **other means. The court may not prohibit recording or reporting of the proceeding under this**  
13 **section.**

14 **(2) A reporter providing stenographic reporting services under this section must be cer-**  
15 **tified in shorthand reporting under ORS 8.415 to 8.455 or by a nationally recognized certi-**  
16 **fication program. A party arranging for reporting of the proceeding by stenographic means**  
17 **must provide the court with the name of the reporter and an address and telephone number**  
18 **where the reporter may be contacted.**

19 **(3) If all parties to the proceeding and the court agree, the audio recording or steno-**  
20 **graphic or other reporting of the proceeding arranged under this section may be used by the**  
21 **parties during the proceeding.**

22 **(4) If all parties to the proceeding and the court agree, the audio recording or steno-**  
23 **graphic or other reporting of the proceeding arranged under this section is the official record**  
24 **of the proceeding.**

25 **(5) Unless other parties agree to pay all or part of the cost of the audio recording or**  
26 **stenographic or other reporting of the proceeding, the party arranging for the recording or**  
27 **reporting must pay all costs of the recording or reporting.**

28 **SECTION 12. Sections 8 and 11 of this 2015 Act and the amendments to ORS 53.090 by**  
29 **section 9 of this 2015 Act apply only to proceedings occurring in a justice court or municipal**  
30 **court on or after January 1, 2016.**

31 **SECTION 13. If House Bill 3399 becomes law, sections 1, 2 (amending ORS 53.090), 3, 4**  
32 **and 5, chapter \_\_, Oregon Laws 2015 (Enrolled House Bill 3399), are repealed.**

33 **SECTION 14. This 2015 Act being necessary for the immediate preservation of the public**  
34 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
35 **on its passage.**

36