

House Bill 2340

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

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 **as introduced**.

Limits personal information that may be included in certain judgments, orders and other court documents.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to personal information contained in court documents; creating new provisions; amending
3 ORS 18.042, 18.048, 18.170, 25.020 and 109.073; and declaring an emergency.

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

5 **SECTION 1.** ORS 18.042 is amended to read:

6 18.042. (1) The judgment document for a judgment in a civil action that includes a money award
7 must contain a separate section clearly labeled as a money award. Any judgment in a civil action
8 that includes a money award, but does not contain a separate section clearly labeled as a money
9 award, does not create a judgment lien but may be enforced by any other judgment remedy.

10 (2) The separate section required by subsection (1) of this section must include all of the fol-
11 lowing:

12 (a) The name and address of each judgment creditor and the name, address and telephone num-
13 ber of any attorney who represents one or more of the judgment creditors.

14 (b) The name of each judgment debtor and, to the extent known by the judgment creditor:

15 (A) The address of each judgment debtor;

16 (B) The year of birth of each judgment debtor;

17 (C) The **final four digits of the** tax identification number of each judgment debtor, or the final
18 four digits of the Social Security number of each judgment debtor;

19 (D) The final four digits of the driver license number of each judgment debtor and the name of
20 the state that issued the license; and

21 (E) The name of any attorney for each judgment debtor.

22 (c) The name of any person or public body, as defined in ORS 174.109, other than the judgment
23 creditor's attorney, that is known by the judgment creditor to be entitled to any portion of the
24 money award.

25 (d) The amount of money awarded in the judgment, exclusive of amounts required to be included
26 in the separate section under paragraphs (e) to (h) of this subsection.

27 (e) Any interest owed as of the date the judgment is entered in the register, either as a specific
28 amount or as accrual information, including the rate or rates of interest, the balance or balances
29 upon which interest accrues, the date or dates from which interest at each rate on each balance
30 runs, and whether interest is simple or compounded and, if compounded, at what intervals.

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 (f) Information about interest that accrues on the judgment after entry in the register, including
 2 the rate or rates of interest, the balance or balances upon which interest accrues, the date or dates
 3 from which interest at each rate on each balance runs, and whether interest is simple or com-
 4 pounded and, if compounded, at what intervals.

5 (g) For monetary obligations that are payable on a periodic basis, any accrued arrearages, re-
 6 quired further payments per period and payment dates.

7 (h) If the judgment requires the payment of costs and disbursements or attorney fees, a state-
 8 ment indicating that the award is made, any specific amounts awarded, a clear identification of the
 9 specific requests for relief for which any attorney fees are awarded and the amount of attorney fees
 10 awarded for each request for relief.

11 (3) The information required by subsection (2) of this section must be set forth in the money
 12 award section of the judgment document in the same order as the requirements appear in subsection
 13 (2) of this section.

14 (4) The separate section required by subsection (1) of this section must be placed immediately
 15 above the judge's or court administrator's signature. The separate section must be clearly labeled
 16 at its beginning as a money award. If the judgment includes a support award, the label of the sep-
 17 arate section must so indicate. Except for information described in ORS 24.290, the separate section
 18 of the judgment document may not contain any provision except the information required by this
 19 section.

20 (5) The provisions of this section do not apply to foreign judgments that are filed with a court
 21 under ORS 24.115 or 110.405. If a foreign judgment is filed with the court under ORS 24.115, the
 22 separate statement required by ORS 24.125 must be filed with the foreign judgment.

23 **SECTION 2.** ORS 18.048 is amended to read:

24 18.048. (1) Except as provided in this section, the judgment document in a criminal action that
 25 contains a money award, whether by reason of a fine, restitution, forfeiture of security under ORS
 26 135.280, a fee, an assessment, costs and disbursements or any other monetary obligation, must con-
 27 tain a separate section clearly labeled at its beginning as a money award. The separate section must
 28 be placed immediately above the judge's or court administrator's signature. If the judgment includes
 29 an award of restitution, the label of the separate section must so indicate.

30 (2) The separate money award section described by subsection (1) of this section must contain
 31 the following information:

32 (a) A listing of the specific amounts awarded as fines, assessments, costs, restitution and any
 33 other monetary obligations imposed in the sentence as part of the money award. If the court is un-
 34 able to determine the full amount of restitution at the time of sentencing, the court may include the
 35 amount that can be determined or may establish a maximum amount.

36 (b) If restitution or a compensatory fine is ordered, **a reference to** the name and address of the
 37 **victim, in accordance with subsection (7) of this section** *[person to whom the court should dis-*
 38 *burse payments, unless the victim requests that this information be exempt from disclosure in the public*
 39 *record].*

40 (c) A statement that, subject to amendment of a judgment under ORS 137.107, money required
 41 to be paid as a condition of probation remains payable after revocation of probation only if the
 42 amount is included in the money award portion of the judgment document, even if the amount is
 43 referred to in other parts of the judgment document.

44 (d) Unless immediate payment is required, the specific terms of payment imposed or allowed by
 45 the court.

1 (e) If payment of all or part of a monetary obligation is suspended, a statement specifying the
2 nature and amount of the suspended obligations.

3 (3) The requirements of this section and ORS 18.038 do not apply to a judgment document if the
4 action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the court
5 has used the space on the citation for the entry of a judgment. The exemption provided by this
6 subsection does not apply if any indictment, information or complaint other than a uniform citation
7 is filed in the action.

8 (4) If a judgment is for conviction of a violation as described in ORS 153.008, the judgment
9 creates a lien only if the court so orders. If a judgment does not create a lien under this subsection,
10 the judgment document need not contain the separate money award section described by subsection
11 (1) of this section.

12 (5) A judgment in a criminal action that contains a money award is a judgment in favor of the
13 state and may be enforced only by the state.

14 (6) A judgment in a criminal action that includes a money award, but does not contain a sepa-
15 rate section clearly labeled as a money award, does not create a judgment lien but may be enforced
16 by any other judgment remedy.

17 **(7) A judgment in a criminal action may not include the name or address of the victim.**
18 **If the court is required to disburse payments to the victim under subsection (2)(b) of this**
19 **section, the court shall retain the name and address of the victim for that purpose. The ad-**
20 **dress retained for that purpose is not subject to public disclosure.**

21 **SECTION 3.** ORS 18.170 is amended to read:

22 18.170. (1) Unless otherwise prescribed by law, a person recording a lien record abstract shall
23 use substantially the following form:

24 _____
25
26 LIEN RECORD ABSTRACT
27

28 The undersigned states:

29
30 A. Creditor/Prevailing Party Information:

31 — 1. The creditor/prevailing party is:

32 _____

33 and the address of the creditor is:

34 _____

35 _____

36 under judgment, order or petition

37 entered on _____ (date) in

38 the _____ Court for

39 _____ (County) of _____ (State)

40 under Case No. _____.

41 — 2. The creditor's attorney's name is

42 _____

43 Attorney's Address is:

44 _____

45 Attorney's Phone No. is: _____

1 B. Debtor/Losing Party Information:

2 — 1. The debtor/losing party is:
3 _____

4 — 2. Debtor's address (if known):
5 _____
6 _____

7 — 3. The **final four digits of the debtor's**
8 Taxpayer Identification No. [*of the debtor*],
9 or the final four digits of
10 the debtor's Social Security No.
11 (if known):
12 _____

13 — 4. The final four digits of the debtor's
14 driver license no. and state of
15 issuance for the license (if known):
16 _____

17 — 5. Name of debtor's attorney
18 (if known):
19 _____

20
21 C. Judgment Information:

22 — 1. The amount of the judgment is:
23 _____

24 — 2. The amount of the costs is:
25 _____

26 — 3. The amount of attorney fees, if any
27 is: _____

28
29 D. The Real or Personal Property to Be
30 Affected

31 (Check appropriate box):

32 — All real property of the debtor/losing
33 party, now or hereafter acquired,
34 in _____ County as provided under ORS 18.152

35 — The following described real or
36 personal property of debtor (legal
37 description as set forth or on
38 attached Exhibit):
39 _____
40 _____
41 _____
42 _____

43
44 IN WITNESS WHEREOF, the
45 undersigned person or persons have

1 executed this abstract this ____ day
2 of _____, 2____.

3
4 _____ _____
5 _____ _____

6
7 State of Oregon)
8) ss.
9 County of _____)

10
11 The foregoing instrument was acknowledged before me this ____ day of _____, 2____, by
12 _____.

13 _____
14 Notary Public for Oregon

15
16 My commission expires: _____

17
18 State of Oregon)
19) ss.
20 County of _____)

21
22 The foregoing instrument was acknowledged before me this ____ day of _____, 2____, by
23 _____ and by _____ of _____, a corporation on be-
24 half of the corporation.

25 _____
26 _____
27 Notary Public for Oregon

28
29 My commission expires: _____

30 _____
31

32 (2) A lien record abstract that is the result of a judgment for unpaid child or spousal support
33 entered in another state shall be on the form prescribed by rules adopted by the Department of
34 Justice in lieu of the form required by subsection (1) of this section.

35 **SECTION 4.** ORS 25.020 is amended to read:

36 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed
37 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized
38 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

39 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or
40 419C.597;

41 (b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
42 person who receives or has a right to receive support payments on the person's own behalf or on
43 behalf of another person;

44 (c) After the assignment of support terminates for as long as amounts assigned remain owing;

45 (d) For any period during which support enforcement services are provided under ORS 25.080;

1 (e) When ordered by the court under ORS 419B.400;

2 (f) When a support order that is entered or modified on or after January 1, 1994, includes a
3 provision requiring the obligor to pay support by income withholding; or

4 (g) When ordered by the court under any other applicable provision of law.

5 (2)(a) The Department of Justice shall disburse payments, after lawful deduction of fees and in
6 accordance with applicable statutes and rules, to those persons and entities that are lawfully enti-
7 tled to receive such payments.

8 (b) During a period for which support is assigned under ORS 412.024, for an obligee described
9 in subsection (1)(b) of this section, the department shall disburse to the obligee, from child support
10 collected each month, \$50 for each child up to a maximum of \$200 per family.

11 (3)(a) When the administrator is providing support enforcement services under ORS 25.080, the
12 obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for as-
13 sistance in collecting child support payments.

14 (b) The Department of Justice:

15 (A) Shall disburse support payments, to which the obligee is legally entitled, to the collection
16 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection
17 to the department;

18 (B) May reinstate disbursements to the obligee if:

19 (i) The obligee requests that disbursements be made directly to the obligee;

20 (ii) The collection agency violates any provision of this subsection; or

21 (iii) The Department of Consumer and Business Services notifies the Department of Justice that
22 the collection agency is in violation of the rules adopted under ORS 697.086;

23 (C) Shall credit the obligor's account for the full amount of each support payment received by
24 the department and disbursed to the collection agency; and

25 (D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include
26 a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be
27 eligible for support enforcement services from the department or the district attorney without pay-
28 ing the interest or fee that is typically charged by a collection agency.

29 (c) The obligee shall:

30 (A) Provide to the department, on a form approved by the department, information about the
31 agreement with the collection agency; and

32 (B) Promptly notify the department when the agreement is terminated.

33 (d) The collection agency:

34 (A) May provide investigative and location services to the obligee and disclose relevant infor-
35 mation from those services to the administrator for purposes of providing support enforcement ser-
36 vices under ORS 25.080;

37 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-
38 ment received unless the collection agency, if allowed by the terms of the agreement between the
39 collection agency and the obligee, hires an attorney to perform legal services on behalf of the
40 obligee;

41 (C) May not initiate, without written authorization from the administrator, any enforcement
42 action relating to support payments on which support enforcement services are provided by the ad-
43 ministrator under ORS 25.080; and

44 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
45 12-point type that provides information on the fees, penalties, termination and duration of the

1 agreement.

2 (e) The administrator may use information disclosed by the collection agency to provide support
3 enforcement services under ORS 25.080.

4 (4) The Department of Justice may immediately transmit to the obligee payments received from
5 any obligor without waiting for payment or clearance of the check or instrument received if the
6 obligor has not previously tendered any payment by a check or instrument that was not paid or was
7 dishonored.

8 (5) The Department of Justice shall notify each obligor and obligee by mail when support pay-
9 ments shall be made to the department and when the obligation to make payments in this manner
10 shall cease.

11 (6)(a) The administrator shall provide information about a child support account directly to a
12 party to the support order regardless of whether the party is represented by an attorney. As used
13 in this subsection, "information about a child support account" means the:

14 (A) Date of issuance of the support order.

15 (B) Amount of the support order.

16 (C) Dates and amounts of payments.

17 (D) Dates and amounts of disbursements.

18 (E) Payee of any disbursements.

19 (F) Amount of any arrearage.

20 (G) Source of any collection, to the extent allowed by federal law.

21 (b) Nothing in this subsection limits the information the administrator may provide by law to a
22 party who is not represented by an attorney.

23 (7) Any pleading for the entry or modification of a support order must contain a statement that
24 payment of support under a new or modified order will be by income withholding unless an excep-
25 tion to payment by income withholding is granted under ORS 25.396.

26 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-
27 tablishing paternity or including a provision concerning support must contain:

28 (A) The residence, mailing or contact address, **final four digits of the** Social Security number,
29 telephone number and **final four digits of the** driver license number of each party;

30 (B) The name, address and telephone number of all employers of each party;

31 (C) The names and dates of birth of the joint children of the parties; and

32 (D) Any other information required by rule adopted by the Chief Justice of the Supreme Court
33 under ORS 1.002.

34 (b) The judgment or order shall also include notice that the obligor and obligee:

35 (A) Must inform the court and the administrator in writing of any change in the information
36 required by this subsection within 10 days after the change; and

37 (B) May request that the administrator review the amount of support ordered after three years,
38 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a
39 substantial change of circumstances.

40 (c) The administrator may require of the parties any additional information that is necessary for
41 the provision of support enforcement services under ORS 25.080.

42 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party
43 or child would unreasonably be put at risk by the disclosure of information specified in this sub-
44 section or by the disclosure of other information concerning a child or party to a paternity or sup-
45 port proceeding or if an existing order so requires, a court or administrator or administrative law

1 judge, when the proceeding is administrative, shall order that the information not be contained in
 2 any document provided to another party or otherwise disclosed to a party other than the state.

3 (B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-
 4 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
 5 support enforcement services under ORS 25.080.

6 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,
 7 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and
 8 require that the information be submitted through an alternate procedure to ensure that the infor-
 9 mation is exempt from public disclosure under ORS 192.502.

10 (9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child
 11 support enforcement action, the court or administrator, upon a showing of diligent effort made to
 12 locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the
 13 last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

14 (b) Service of an order directing an obligor to appear in a contempt proceeding is subject to
 15 ORS 33.015 to 33.155.

16 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
 17 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
 18 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
 19 county clerk or the Department of Human Services.

20 (11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be
 21 given for payments not made to the Department of Justice as required under subsection (1) of this
 22 section.

23 (12) The Department of Justice shall give credit for payments not made to the department:

24 (a) When payments are not assigned to this or another state and the obligee and obligor agree
 25 in writing that specific payments were made and should be credited;

26 (b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
 27 written statements that specific payments were made, canceled checks or other substantial evidence
 28 is presented to corroborate their statements and the obligee has been given prior written notice of
 29 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
 30 support;

31 (c) When payments are assigned to another state and that state verifies that payments not paid
 32 to the department were received by the other state; or

33 (d) As provided by rule adopted under ORS 180.345.

34 (13) An obligor may apply to the Department of Justice for credit for payments made other than
 35 to the Department of Justice. If the obligee or other state does not provide the agreement, sworn
 36 statement or verification required by subsection (12) of this section, credit may be given pursuant
 37 to order of an administrative law judge assigned from the Office of Administrative Hearings after
 38 notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall
 39 be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail
 40 at the address provided in the application for credit. A hearing conducted under this subsection is
 41 a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo
 42 in the circuit court.

43 (14) Nothing in this section precludes the Department of Justice from giving credit for payments
 44 not made to the department when there has been a judicially determined credit or satisfaction or
 45 when there has been a satisfaction of support executed by the person to whom support is owed.

1 (15) The Department of Justice shall adopt rules that:

2 (a) Direct how support payments that are made through the department are to be applied and
3 disbursed; and

4 (b) Are consistent with federal regulations.

5 **SECTION 5.** ORS 109.073 is amended to read:

6 109.073. Except as otherwise provided in ORS 25.020, the **final four digits of the** Social Security
7 number of a parent who is subject to a paternity determination pursuant to ORS 109.070 (1)(d), (e),
8 (f) or (g) or 416.400 to 416.465 shall be included in the order, judgment or other declaration estab-
9 lishing paternity.

10 **SECTION 6.** (1) **The amendments to ORS 18.042, 18.048, 18.170, 25.020 and 109.073 by**
11 **sections 1 to 5 of this 2015 Act become operative on January 1, 2016.**

12 (2) **The Chief Justice of the Supreme Court may adopt rules before the operative date**
13 **specified in subsection (1) of this section as necessary to implement the amendments to ORS**
14 **18.042, 18.048, 18.170, 25.020 and 109.073 by sections 1 to 5 of this 2015 Act.**

15 **SECTION 7.** **This 2015 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
17 **on its passage.**

18