

# House Bill 2911

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFECTIVENESS

## 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**.

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 Repeals outdated laws governing damages for Y2K computer failures. Repeals outdated law governing enforcement of child support judgments.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 Relating to courts; creating new provisions; amending ORS 1.110, 1.120, 1.655, 3.075, 8.225, 18.180,  
2 18.182, 34.200, 34.710, 137.060 and 180.080, section 45, chapter 576, Oregon Laws 2003, and ORCP  
3 9 F, 10 A and 10 C; repealing ORS 1.055, 3.232, 3.235, 18.192, 30.655, 30.656, 30.658, 30.660, 30.661,  
4 30.662, 30.664, 30.665, 51.440, 51.450, 51.460, 51.470, 51.480, 51.490, 51.500, 51.540, 51.550 and  
5 202.300 and ORCP 10 B; and declaring an emergency.  
6

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

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

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 ORS 1.055 is repealed.**

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

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 ORS 3.232 and 3.235 are repealed.**

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

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 ORCP 10 B is repealed.**

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

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 ORS 202.300 is repealed.**

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

18 **SECTION 6. ORCP 10 C, as amended by the Council on Court Procedures on December 6, 2014,**  
19 **is amended to read:**

20 [C] (B) Additional time after service by mail, e-mail, facsimile communication, or electronic  
21 service. Except for service of summons, whenever a party has the right to or is required to do some  
22 act within a prescribed period after the service of a notice or other document upon that party and  
23 the notice or document is served by mail, e-mail, facsimile communication, or electronic service, 3  
24 days shall be added to the prescribed period.

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

26 **SECTION 7. ORCP 9 F, as amended by the Council on Court Procedures on December 6, 2014,**  
27 **is amended to read:**

28 F Service by facsimile communication. Whenever under these rules service is required or per-  
29 mitted to be made upon a party, and that party is represented by an attorney, the service may be  
30 made upon the attorney by means of facsimile communication if the attorney has such technology

**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 available and said technology is operating at the time service is made. Service in this manner shall  
 2 be subject to Rule 10 [C] B. Facsimile communication includes: a telephonic facsimile communication  
 3 device; a facsimile server or other computerized system capable of receiving and storing incoming  
 4 facsimile communications electronically and then routing them to users on paper or via e-mail; or  
 5 an internet facsimile service that allows users to send and receive facsimiles from their personal  
 6 computers using an existing e-mail account.

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

8 **SECTION 8.** ORCP 10 A, as amended by the Council on Court Procedures on December 6, 2014,  
 9 is amended to read:

10 A Computation. In computing any period of time prescribed or allowed by these rules, by the  
 11 local rules of any court, or by order of court the day of the act, event, or default from which the  
 12 designated period of time begins to run shall not be included. The last day of the period so com-  
 13 puted shall be included, unless it is a Saturday or a legal holiday, including Sunday, in which event  
 14 the period runs until the end of the next day that is not a Saturday or a legal holiday. If the period  
 15 so computed relates to serving a public officer or filing a document at a public office, and if the last  
 16 day falls on a day when that particular office is closed before the end of or for all of the normal  
 17 work day, the last day shall be excluded in computing the period of time within which service is to  
 18 be made or the document is to be filed, in which event the period runs until the close of office hours  
 19 on the next day the office is open for business. When the period of time prescribed or allowed  
 20 (without regard to section [C] B of this rule) is less than 7 days, intermediate Saturdays and legal  
 21 holidays, including Sundays, shall be excluded in the computation. As used in this rule, “legal hol-  
 22 iday” means legal holiday as defined in ORS 187.010 and 187.020. This section does not apply to any  
 23 time limitation governed by ORS 174.120.

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

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

26 1.110. If no judge attend on the day appointed for holding a court, before 4 p.m., the court shall  
 27 stand adjourned until the next day at 9 a.m. [*In case a judge is unable to attend at the time provided*  
 28 *by law for a regular term of court, or at the time specified for a special term, the judge may by an order*  
 29 *made and signed anywhere in the district of the judge postpone such regular or special term until some*  
 30 *future time.*]

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

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

33 1.120. No action, suit or proceeding pending in a court of justice is affected by a vacancy in the  
 34 office of any or all of the judges[, *or by the failure of a term thereof*].

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

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

37 1.655. (1) It is the duty of a judge pro tempore appointed as provided in ORS 1.635 to hear, de-  
 38 cide and dispose of all cases and matters submitted to the judge pro tempore as promptly as the  
 39 nature of the questions involved will permit. The powers, jurisdiction and judicial authority of the  
 40 judge pro tempore in respect to any case or matter tried or heard by the judge pro tempore while  
 41 serving under the appointment shall continue beyond the expiration of the appointment so far as  
 42 may be necessary to:

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

44 (b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or  
 45 objections to any cost bill, that may be filed in the case.

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

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

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

4 (b) Terminate the term of appointment of a judge pro tempore appointed as provided in ORS  
5 1.635 as of a date specified in the order; but termination does not affect the validity of any judgment,  
6 order or other action of the 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 1.635 is not eligible to  
8 appear as attorney in that court in any case tried by a jury [*at the same term of court during*  
9 *which*] **during the time** the judge pro tempore served as judge pro tempore.

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

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

12 3.075. If two or more persons are sitting as judges of the circuit court in a judicial district:

13 (1) Any two or more of them may act in joint session for the trial or determination of any cause,  
14 matter or proceeding before the court in the judicial district, including jury cases. If the judges  
15 acting in joint session are equally divided in opinion, the opinion of the presiding judge prevails;  
16 otherwise the decision of the majority prevails.

17 (2) Each of them may proceed separately with and try, simultaneously in the judicial district  
18 [*and during the same term*], all causes, matters and proceedings brought before the court.

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

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

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

22 8.225. (1) The trial court administrator for a judicial district has the duties, powers and func-  
23 tions prescribed by law or by rules of the circuit courts in the district.

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

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

26 (b) Record the proceedings of the court.

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

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

30 (e) Attend [*the terms of*] the court, administer oaths and receive the verdict of a jury in any  
31 action or proceeding therein, in the presence and under the direction of the court.

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

33 (g) Authenticate, by certificate or transcript, as may be required, the records, files or pro-  
34 ceedings of the court, or any document pertaining thereto, and filed with the officer.

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

36 (3) A trial court administrator may take and certify the proof and acknowledgment of a  
37 conveyance of real property or any other written instrument authorized or required to be proved  
38 or acknowledged.

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

41 (5) A trial court administrator shall designate a person to act as transcript coordinator for the  
42 court.

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

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

45 34.200. [(1) *In the circuit court or Oregon Tax Court the writ may be made returnable either in*

1 term time or vacation, and if the latter, may be tried and determined before the judge in like manner  
2 and with like effect as in term time.]

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

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

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

7 34.710. Any party to a proceeding by habeas corpus, including the state when the district at-  
8 torney appears therein, may appeal from the judgment of the court refusing to allow such writ or  
9 any judgment therein, [either in term time or vacation,] in like manner and with like effect as in an  
10 action. No question once finally determined upon a proceeding by habeas corpus shall be reexamined  
11 upon another proceeding of the same kind.

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

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

14 137.060. The bench warrant shall be substantially in the following form:

15 \_\_\_\_\_

16  
17 CIRCUIT COURT  
18 FOR THE COUNTY OF  
19 \_\_\_\_\_, STATE OF OREGON  
20 IN THE NAME OF  
21 THE STATE OF OREGON  
22

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

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

28 Witness my hand and seal of said circuit court, affixed at \_\_\_\_\_, in said county, this  
29 \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

30 [L. S.]

31 C D, Clerk of the Court  
32 \_\_\_\_\_

33  
34 **NOTE:** Deletes obsolete references to terms of court.

35 **SECTION 17.** ORS 180.080 is amended to read:

36 180.080. When directed by the Governor, the Attorney General shall attend in person, or by one  
37 of the assistants of the Attorney General, [any term of] in any court, or appear before the grand jury  
38 in any county, for the purpose of managing and conducting in such court, or before such jury, the  
39 criminal action or proceeding specified in the requirement. The Attorney General, or the assistant  
40 of the Attorney General so attending, shall exercise all the powers and perform all the duties in  
41 respect of the action or proceeding which the district attorney would otherwise be authorized to  
42 exercise or perform. The district attorney shall only exercise such powers and perform such duties  
43 in the action or proceeding as are required of the district attorney by the Attorney General, or the  
44 assistant of the Attorney General so attending.

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

1        **SECTION 18. ORS 30.655, 30.656, 30.658, 30.660, 30.661, 30.662, 30.664 and 30.665 are re-**  
2 **pealed.**

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

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

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

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

10       **(2) The repeal of ORS 18.192 by this section does not operate to revive the judgment lien**  
11 **of any judgment that expired before the effective date of this 2015 Act.**

12       **NOTE:** Repeals outdated law on enforcement of child support judgments. All child support  
13 judgments are now enforceable for 35 years. See ORS 18.180 (5). Specifies that the repeal does not  
14 revive any judgment that expired before the effective date of this 2015 Act.

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

16       **Sec. 45.** (1) Except as provided by this section or by [*sections 1 to 44 of this 2003 Act, sections*  
17 *1 to 44 of this 2003 Act apply*] **ORS chapter 18, ORS chapter 18 applies** only to judgments entered  
18 on or after [*the effective date of this 2003 Act*] **January 1, 2004.** Nothing in [*this 2003 Act*] **chapter**  
19 **576, Oregon Laws 2003,** affects the validity, lien effect or enforceability of any judgment or decree  
20 entered before [*the effective date of this 2003 Act*] **January 1, 2004.** Nothing in [*this 2003 Act*]  
21 **chapter 576, Oregon Laws 2003,** affects the validity, lien effect or enforceability of any order or  
22 warrant docketed or recorded before [*the effective date of this 2003 Act*] **January 1, 2004.** Except as  
23 provided by this section or [*sections 1 to 44 of this 2003 Act*] **ORS chapter 18,** any judgment or de-  
24 cree entered before [*the effective date of this 2003 Act*] **January 1, 2004,** and any order or warrant  
25 docketed or recorded before [*the effective date of this 2003 Act*] **January 1, 2004,** shall continue to  
26 be governed by the law in effect on the day immediately preceding [*the effective date of this 2003*  
27 *Act*] **January 1, 2004.**

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

31       (3) A judgment creditor may create a judgment lien for a judgment in a county other than the  
32 county in which a judgment is entered in the manner provided by [*section 15 of this 2003 Act*] **ORS**  
33 **18.152** without regard to whether the judgment is entered before, on or after [*the effective date of this*  
34 *2003 Act*] **January 1, 2004.**

35       (4) [*Section 17 of this 2003 Act*] **ORS 18.158** applies to all judgments, whether entered before, on  
36 or after [*the effective date of this 2003 Act*] **January 1, 2004.**

37       (5) Except as provided in [*sections 21 and 22 of this 2003 Act, sections 18 and 19 of this 2003*  
38 *Act*] **ORS 18.190, ORS 18.180 and 18.182** apply to all judgments, whether entered before, on or after  
39 [*the effective date of this 2003 Act*] **January 1, 2004.** Notwithstanding [*section 19 of this 2003 Act*]  
40 **ORS 18.182,** any order of renewal entered before [*the effective date of this 2003 Act*] **January 1, 2004,**  
41 may be recorded in the manner provided by [*section 19 (6) of this 2003 Act*] **ORS 18.182 (6)** with the  
42 effect provided by [*section 15 (4) of this 2003 Act*] **ORS 18.152 (4).**

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

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

4 (8) [Section 25 of this 2003 Act] **ORS 18.225** applies to any satisfaction of judgment filed with a  
 5 court on or after [the *effective date of this 2003 Act*] **January 1, 2004**, without regard to whether the  
 6 judgment was entered before, on or after [the *effective date of this 2003 Act*] **January 1, 2004**.

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

9 (10) [Section 28 of this 2003 Act] **ORS 18.235** applies to any motion for an order declaring that  
 10 a money award has been satisfied, or to determine the amount necessary to satisfy a money award,  
 11 filed with a court on or after [the *effective date of this 2003 Act*] **January 1, 2004**, without regard to  
 12 whether the judgment was entered before, on or after [the *effective date of this 2003 Act*] **January**  
 13 **1, 2004**.

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

17 (12) [Sections 31 and 32 of this 2003 Act] **ORS 18.265 and 18.268** apply to any motion for a debtor  
 18 examination made on or after [the *effective date of this 2003 Act*] **January 1, 2004**, without regard  
 19 to whether the judgment was entered before, on or after [the *effective date of this 2003 Act*] **January**  
 20 **1, 2004**.

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

24 (14) [Sections 34 to 44 of this 2003 Act] **ORS 18.465 to 18.476 and 18.492 to 18.518 (both 2003**  
 25 **Edition)** apply to any writ of execution issued on or after [the *effective date of this 2003 Act*] **Jan-**  
 26 **uary 1, 2004**, without regard to whether the judgment was entered before, on or after [the *effective*  
 27 *date of this 2003 Act*] **January 1, 2004**.

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

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

30 18.180. (1) Judgment remedies for a judgment expire upon full satisfaction of the money award  
 31 portion of the judgment.

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

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

37 (4) Except as provided in this subsection, judgment remedies for a judgment in a criminal action  
 38 expire 20 years after the entry of the judgment. Judgment remedies for a judgment in a criminal  
 39 action that includes a money award for restitution expire 50 years after the entry of the judgment.

40 (5) [Except as provided in ORS 18.192,] Judgment remedies for the child support award portion  
 41 of a judgment, and any lump sum support award for child support, expire 35 years after the entry  
 42 of the judgment that first establishes the support obligation.

43 (6)(a) Except as provided by paragraph (b) of this subsection and ORS 18.190, judgment remedies  
 44 for any unpaid installment under the spousal support award portion of a judgment, including any  
 45 installment arrearage lien arising under the judgment, expire 25 years after the entry of the judg-

1 ment that first establishes the support obligation, or 10 years after an installment comes due under  
 2 the judgment and is not paid, whichever is later.

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

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

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

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

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

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

17 18.182. (1) Judgment remedies for a judgment may be extended by filing a certificate of extension  
 18 in the court that entered the judgment. The court administrator shall enter the certificate in the  
 19 register of the court and in the judgment lien record. Except as provided in ORS 18.180 to 18.192,  
 20 a judgment creditor may file a certificate of extension only if:

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

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

23 (2) Notwithstanding subsection (1) of this section, if the judgment debtor has been discharged  
 24 from debt under federal bankruptcy laws, a certificate of extension may not be filed except as pro-  
 25 vided in this subsection. Judgments are presumed to have not been discharged in bankruptcy until  
 26 the judgment debtor establishes that the judgment has been discharged. If the judgment debtor is  
 27 discharged from a debt, a certificate of extension may be filed if:

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

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

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

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

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

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

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

41 (6) A certified copy of a certificate of extension, or a lien record abstract for the certificate,  
 42 may be recorded in any county in which the judgment was recorded under ORS 18.152, with the ef-  
 43 fect provided by ORS 18.152 (4).

44 (7) Except as provided in ORS 18.185[,] **and** 18.190 [*and 18.192*], the judgment remedies for the  
 45 support award portion of a judgment, and any lump sum money award for unpaid child support in-

1 stallments, may not be extended under this section.

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

4 (9) This section does not apply to justice courts, municipal courts or county courts performing  
5 judicial functions.

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

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

10