Enrolled
Senate Bill 896

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER .....

AN ACT

Relating to criminal appeals; creating new provisions; amending ORS 40.460, 136.120, 136.434, 137.020, 137.079, 138.005, 138.060, 138.071, 138.081, 138.185, 138.210, 138.227, 138.261 and 138.697; and repealing ORS 136.130, 136.140, 138.040, 138.050, 138.053, 138.083, 138.110, 138.120, 138.220, 138.222, 138.230, 138.240, 138.250 and 138.300.

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

APPEALS GENERALLY

SECTION 1. ORS 138.005 is amended to read:

138.005. As used in ORS 138.010 to 138.310[,]**:**

(1) Unless the context requires otherwise, the terms defined in ORS 19.005 have the meanings set forth in ORS 19.005.

(2) "Appealable" means, in reference to a judgment or order rendered by a trial court, that the judgment or order is, by law, subject to appeal by a party.

(3) "Colorable claim of error" means an argument that is plausible, grounded in the facts of the case, and reasonable under current law or a reasonable extension or modification of current law.

(4) "Reviewable" means, in reference to a particular decision of a trial court on appeal from an appealable judgment or order, that the appellate court may, by law, consider the decision and resolve an issue regarding the decision.

(5) "Sentence" means all legal consequences established or imposed by the trial court after conviction of an offense, including but not limited to:

(a) Forfeiture, imprisonment, cancellation of license, removal from office, monetary obligation, probation, conditions of probation, discharge, restitution and community service; and

(b) Suspension of imposition or execution of any part of a sentence, extension of a period of probation, imposition of a new or modified condition of probation or of sentence suspension, and imposition or execution of a sentence upon revocation of probation or sentence suspension.

APPEAL BY THE DEFENDANT

SECTION 2. (1) Sections 3, 6, 10, 12, 13, 14 and 15 of this 2017 Act are added to and made a part of ORS 138.010 to 138.310.

SECTION 3. **(1)(a) A defendant may take an appeal from the circuit court, or from a municipal court or a justice court that has become a court of record under ORS 51.025 or 221.342, to the Court of Appeals from a judgment:**

(A) Conclusively disposing of all counts in the accusatory instrument or conclusively disposing of all counts severed from other counts;

(B) Convicting the defendant of at least one count; and

(C) Imposing sentence on all counts of which the defendant was convicted.

(b) For the purposes of this subsection, if the trial court merges a determination of guilt on one count with a determination of guilt on another count and imposes a sentence on the merged determinations of guilt, the trial court has conclusively disposed of the merged counts.

(2)(a) A defendant may appeal a judgment ordering payment of restitution but not specifying the amount of restitution.

(b) A defendant may appeal a supplemental judgment awarding restitution.

(3) A defendant may appeal a judgment or order extending a period of probation, imposing a new or modified condition of probation or of sentence suspension, or imposing or executing a sentence upon revocation of probation or sentence suspension.

(4) A defendant may appeal an amended or corrected judgment entered after the judgment of conviction and sentence.

(5) A defendant may cross-appeal when the state appeals pursuant to ORS 138.060 (1)(d).

APPEAL BY THE STATE

SECTION 4. ORS 138.060 is amended to read:

138.060. (1) The state may take an appeal from the circuit court, or from a municipal court or a justice court that has become a court of record under ORS 51.025 or 221.342, to the Court of Appeals from:

(a) An order made prior to trial dismissing or setting aside **one or more counts in** the accusatory instrument;

(b) An order allowing a demurrer;

[*(b)*] **(c)** An order arresting the judgment;

[*(c)*] **(d)** An order made prior to trial suppressing evidence;

[*(d)*] **(e)** An order made prior to trial for the return or restoration of things seized;

[*(e)*] **(f) For a felony committed on or after November 1, 1989,** a judgment [*of conviction based on the sentence as provided in ORS 138.222*]**, amended judgment or corrected judgment of conviction**;

(g) For any felony, a judgment, amended judgment, supplemental judgment, corrected judgment or post-judgment order, that denied restitution or awarded less than the amount of restitution requested by the state;

[*(f)*] **(h)** An order **or judgment** in a probation revocation hearing finding that a defendant who was sentenced to probation under ORS 137.712 has not violated a condition of probation by committing a new crime;

[*(g)*] **(i)** An order made after a guilty finding dismissing or setting aside **one or more counts in** the accusatory instrument; **or**

[*(h)*] **(j)** An order granting a new trial[*; or*]**.**

[*(i) An order dismissing an accusatory instrument under ORS 136.130.*]

(2) Notwithstanding subsection (1) of this section, when the state chooses to appeal [*from*] an order [*listed in paragraph (a) or (b) of this subsection*] **described in subsection (1)(a), (b) or (d) of this section**, the state shall take the appeal to the Supreme Court if the defendant is charged with murder or aggravated murder. [*The orders to which this subsection applies are:*]

[*(a) An order made prior to trial suppressing evidence; and*]

[*(b) An order made prior to trial dismissing or setting aside the accusatory instrument.*]

[*(3) In an appeal by the state under subsection (2) of this section, the Supreme Court shall issue its decision no later than one year after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Supreme Court for decision. Failure of the Supreme Court to issue a decision within one year is not a ground for dismissal of the appeal.*]

SECTION 5. ORS 136.120 is amended to read:

136.120. **(1)** If[*, when the case is called for trial,*] the defendant appears **at the time set** for trial and the [*district*] **prosecuting** attorney is not ready and does not show [*any*] sufficient cause for postponing the trial, the court shall [*order*] **dismiss** the accusatory instrument [*to be dismissed, unless, being of the opinion that the public interests require the accusatory instrument to be retained for trial, the court directs it to be retained*] **unless the court determines that dismissal is not in the public interest**.

(2) If the court dismisses the accusatory instrument under subsection (1) of this section and:

(a) The instrument charges a felony or Class A misdemeanor, the dismissal is not a bar to another action for the same offense unless the court so orders.

(b) The instrument charges an offense other than a felony or Class A misdemeanor, the dismissal shall be a bar to another action for the same offense.

(3) If the dismissal is a bar to another action for the same offense, the court shall follow the procedures described in ORS 135.680 concerning the defendant's release.

PROCEDURE

SECTION 6. (1) If a defendant appeals a judgment of conviction based only on a plea of guilty or no contest, the notice of appeal must:

(a) Include a statement that the defendant has reserved an issue for appeal under ORS 135.335; or

(b) Identify a colorable claim of error reviewable under section 13 of this 2017 Act.

(2) If a defendant appeals from any of the following judgments or orders, the notice of appeal must identify a colorable claim of error reviewable under section 13 of this 2017 Act:

(a) A trial court's judgment or order:

(A) Revoking probation;

(B) Extending the period of probation;

(C) Imposing a new condition of probation;

(D) Modifying an existing condition of probation; or

(E) Revoking a sentence suspension; or

(b) A judgment resentencing the defendant pursuant to a decision by an appellate court or a circuit court granting post-conviction relief.

(3) The requirements of subsections (1) and (2) of this section are not jurisdictional, but the appellate court may dismiss the appeal if the notice of appeal fails to contain the required statement or fails to identify the colorable claim of error and the defendant fails to correct the deficiency after having been given the opportunity to do so.

SECTION 7. ORS 138.071 is amended to read:

138.071. (1) Except as provided in this section, a notice of appeal must be served and filed not later than 30 days after the judgment or order appealed from was entered in the register.

(2) If a motion for new trial or motion in arrest of judgment is **timely** served and filed, a notice of appeal must be served and filed within 30 days from the earlier of the following dates:

(a) The date of entry of the order disposing of the motion; or

(b) The date on which the motion is deemed denied.

(3) A defendant cross-appealing [*must*] **shall** serve and file the notice of cross-appeal within 10 days of the expiration of the time allowed in subsection (1) of this section.

[*(4) If the trial court enters a corrected or supplemental judgment under ORS 138.083 or under any other statutory provision while an appeal of the judgment of conviction is pending and:*]

[*(a) A party intends to assign error to any part of the corrected or supplemental judgment, the party must file an amended notice of appeal from the corrected or supplemental judgment not later than 30 days after the party receives notice that the corrected or supplemental judgment has been entered.*]

[*(b) A party does not intend to assign error to any part of the corrected or supplemental judgment, the party need only file a notice of intent to proceed with the appeal not later than 30 days after the party receives notice that the corrected or supplemental judgment has been entered.*]

(4)(a) When an appeal is pending and the trial court enters an amended, corrected or supplemental judgment, or an amended or corrected order that is appealable under ORS 138.060, section 3 of this 2017 Act or any other statutory provision:

(A) If the appellant intends to assign error to any part of the amended, corrected or supplemental judgment, or amended or corrected order that is appealable, the appellant shall file an amended notice of appeal from such judgment or order not later than 30 days after the appellant receives notice that such judgment or order has been entered.

(B) If the appellant does not intend to assign error to any part of the amended, corrected or supplemental judgment, or amended or corrected order that is appealable, the appellant need only file a notice of intent to proceed with the appeal not later than 30 days after the appellant receives notice that such judgment or order has been entered. The notice of intent to proceed is not jurisdictional.

(b) As used in this subsection, "appellant" means the attorney of record in the appellate court for the appellant or, if the appellant is not represented by an attorney, the appellant personally.

(5)(a) Upon motion of a defendant, the Court of Appeals shall grant the defendant leave to file a notice of appeal after the time limits described in subsections (1) to (4) of this section if:

(A) The defendant, by clear and convincing evidence, shows that the failure to file a timely notice of appeal is not attributable to the defendant personally; and

(B) The defendant shows a colorable claim of error in the proceeding from which the appeal is taken.

(b) A defendant is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 138.060 [*(1)(c) or (2)(a)*] **(1)(d)**.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsections (1) to (3) of this section must be filed no later than 90 days after entry of the order or judgment being appealed. The request for leave to file a notice of appeal after the time limit prescribed in subsection (4) of this section must be filed no later than 90 days after the party receives notice that the **order or** judgment has been entered. A request for leave under this subsection must be accompanied by the notice of appeal, may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the defendant's request for relief.

(e) The denial of a motion under paragraph (a) of this subsection is a bar to post-conviction relief under ORS 138.510 to 138.680 on the same ground, unless the court provides otherwise.

[*(6) As used in this section, "party" means the attorney of record in the appellate court for the party or, if the party is not represented by an attorney, the party personally.*]

SECTION 8. ORS 138.081 is amended to read:

138.081. (1) An appeal shall be taken by causing a notice of appeal in the form prescribed by ORS 19.250 to be served:

(a)(A) **When the defendant appeals,** on the district attorney for the county in which the judgment is entered[*, when the defendant appeals,*] or**,** if the appeal is under ORS 221.360**,** on the plaintiff's attorney; or

(B) **When the state appeals,** on the attorney of record for the defendant[*,*] or**,** if the defendant has no attorney of record, on the defendant[*, when the state appeals*]; [*and*]

(b) On the trial court transcript coordinator if a transcript is required in connection with the appeal; and

(c) On the [*clerk of the*] trial court **administrator**.

[*(2)(a) The original of the notice shall be filed with the clerk of the court to which the appeal is made.*]

[*(b) Proof of service of the notice of appeal shall be indorsed on or affixed to the original filed with the Court of Appeals or the Supreme Court.*]

(2)(a) If the state cannot effect service on the defendant as provided in subsection (1)(a)(B) of this section, the trial court may order alternative service in accordance with ORCP 7 D(6) on proof of the state's due diligence in attempting to effect service.

(b) Alternative service is not perfected until the time established by the court for response expires and the state files with the appellate court the affidavit or declaration of alternative service.

(3) The notice of appeal signed by the appellant, along with proof of service of the notice, must be filed with the administrator of the court to which the appeal is taken. Proof of service of the notice of appeal may either be part of, or accompany, the original notice when filed.

SECTION 9. ORS 138.185 is amended to read:

138.185. [*(1) In an appeal to the Court of Appeals, when the notice of appeal is filed, or when the appeal is perfected upon publication of notice as provided in ORS 138.120, the record in the trial court shall be prepared and transmitted to the State Court Administrator, at Salem, in the manner and within the time prescribed in ORS chapter 19.*]

[*(2)*] The provisions of ORS 19.250, 19.260, 19.270, **19.365, 19.370, 19.380,** 19.385, 19.390, **19.395,** 19.435, 19.450 and 19.510 [*and the provisions in ORS 19.425 authorizing review of intermediate orders*] and, if the defendant is the appellant, the provisions of ORS 19.420 (3) shall apply to appeals to the **Supreme Court and the** Court of Appeals.

SECTION 10. If the appellate court, during the pendency of an appeal, receives from the trial court an amended, corrected or supplemental judgment or an amended or corrected appealable order, the appellate court shall notify the attorney of record for the state and the attorney of record for the defendant or, if the defendant is not represented by an attorney, the defendant.

SECTION 11. ORS 138.210 is amended to read:

138.210. If the appellant fails to [*appear*] **file a brief** in the appellate court, [*judgment of affirmance shall be given as a matter of course; but*] **the court shall dismiss the appeal.** The defendant need not personally appear in the appellate court.

SECTION 12. A party may appeal a judgment or order deciding a special statutory proceeding as provided in ORS 19.205.

REVIEWABILITY

SECTION 13. (1) On appeal by a defendant, the appellate court has authority to review the judgment or order being appealed, subject to the provisions of this section.

(2) The appellate court has authority to review only questions of law appearing on the record.

(3) Except as otherwise provided in this section, the appellate court has authority to review any intermediate decision of the trial court.

(4) On appeal from a judgment of conviction and sentence, the appellate court has authority to review:

(a) The denial of a motion for new trial based on juror misconduct or newly discovered evidence; and

(b) The denial of a motion in arrest of judgment.

(5) The appellate court has no authority to review the validity of the defendant's plea of guilty or no contest, or a conviction based on the defendant's plea of guilty or no contest, except that:

(a) The appellate court has authority to review the trial court's adverse determination of a pretrial motion reserved in a conditional plea of guilty or no contest under ORS 135.335.

(b) The appellate court has authority to review whether the trial court erred by not merging determinations of guilt of two or more offenses, unless the entry of separate convictions results from an agreement between the state and the defendant.

(6) On appeal from a judgment ordering payment of restitution but not specifying the amount of restitution, the appellate court has no authority to review the decision to award restitution.

(7) Except as otherwise provided in subsections (8) and (9) of this section, the appellate court has authority to review any sentence to determine whether the trial court failed to comply with requirements of law in imposing or failing to impose a sentence.

(8) Except as otherwise provided in subsection (9) of this section, for a sentence imposed on conviction of a felony committed on or after November 1, 1989:

(a) The appellate court has no authority to review:

(A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission.

(B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review is limited to whether the trial court's findings of fact and reasons justifying a departure from the sentence prescribed by the rules of the Oregon Criminal Justice Commission:

(A) Are supported by the evidence in the record; and

(B) Constitute substantial and compelling reasons for departure.

(c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review whether the sentencing court erred:

(A) In ranking the crime seriousness classification of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 or 137.707.

(9) The appellate court has no authority to review any part of a sentence resulting from a stipulated sentencing agreement between the state and the defendant.

(10)(a) On appeal from a corrected or amended judgment that is entered before expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed, the appellate court has authority to review the judgment, including the corrections or amendments, as provided in this section.

(b) On appeal from a corrected or amended judgment that is entered after expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have been appealed, the appellate court has authority to review, as provided in this section, only the corrected or amended part of the judgment, any part of the judgment affected by the correction or amendment, or the trial court's decision under section 20 of this 2017 Act not to correct or amend the judgment.

(c) As used in this subsection, "judgment" means any appealable judgment or order.

(11)(a) On a defendant's cross-appeal under section 3 (5) of this 2017 Act, the appellate court may, in its discretion, limit review to any decision by the trial court that is inextricably linked, either factually or legally, to the state's appeal.

(b) The failure to file a cross-appeal under section 3 (5) of this 2017 Act does not waive a defendant's right to assign error to a particular ruling of the trial court on appeal from a judgment.

SECTION 14. (1) On appeal by the state, the appellate court has authority to review the judgment or order being appealed, subject to the provisions of this section.

(2) The appellate court has authority to review only questions of law appearing on the record.

(3) Except as otherwise provided in this section, the appellate court has authority to review any intermediate decision involving the merits of, or necessarily affecting, the judgment or order from which the appeal is taken.

(4)(a) Except as provided in paragraph (b) of this subsection, on appeal from a judgment of conviction of any felony, the appellate court has authority to review only the sentence as provided by subsections (5) and (6) of this section.

(b) The appellate court has authority to review whether the trial court erred in merging determinations of guilt of two or more offenses, unless the merger of determinations of guilt resulted from an agreement between the state and the defendant.

(5) Except as otherwise provided in subsections (6) and (7) of this section, the appellate court has authority to review the sentence imposed on conviction of any felony to determine whether the trial court failed to comply with requirements of law in imposing or failing to impose a sentence.

(6) Except as otherwise provided in subsection (7) of this section, for a sentence imposed on conviction of a felony committed on or after November 1, 1989:

(a) The appellate court has no authority to review:

(A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission.

(B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review is limited to whether the trial court's findings of fact and reasons justifying a departure from the sentence prescribed by the rules of the Oregon Criminal Justice Commission:

(A) Are supported by the evidence in the record; and

(B) Constitute substantial and compelling reasons for departure.

(c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review whether the sentencing court erred:

(A) In ranking the crime seriousness classification of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 or 137.707.

(7) The appellate court has no authority to review any part of a sentence resulting from a stipulated sentencing agreement between the state and the defendant.

(8)(a) On appeal from a corrected or amended judgment that is entered before expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment can

be appealed, the appellate court has authority to review the judgment, including the corrections or amendments, as provided in this section.

(b) On appeal from a corrected or amended judgment that is entered after expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have been appealed, the appellate court has authority to review, as provided in this section, only the corrected or amended part of the judgment, any part of the judgment affected by the correction or amendment, or the trial court's decision under section 20 of this 2017 Act not to correct or amend the judgment.

(c) As used in this subsection, "judgment" means any appealable judgment or order.

DETERMINATION ON APPEAL

SECTION 15. (1) Except as otherwise provided in this section, the appellate court may affirm, reverse, vacate or modify the judgment or order, or any part thereof, from which the appeal was taken.

(2) Subject to Article VII (Amended), section 3, Oregon Constitution, the appellate court shall not reverse, modify or vacate a trial court judgment or order if there is little likelihood that any error affected the outcome.

(3) Except as provided in subsection (4) of this section, if the court reverses, vacates or modifies a judgment or order, or any part thereof, the court may do so with or without remanding the case and with or without instructions.

(4)(a) The appellate court shall remand the case to the trial court:

(A) If the appellate court, in a case involving multiple convictions, reverses at least one conviction and affirms at least one other conviction.

(B) If the appellate court determines that the trial court, in imposing or failing to impose a sentence in the case, committed an error that requires resentencing.

(b) In a case remanded under this section, the trial court, after issuance of the appellate judgment, may impose a new sentence for any conviction.

(5) If the appellate court reverses a conviction without remanding, upon issuance of the appellate judgment, the trial court shall follow the procedures described in ORS 135.680 concerning the defendant's release.

SECTION 16. ORS 138.227 is amended to read:

138.227. (1) [*Upon*] **On** joint motion of the parties to an appeal in a criminal [*action*] **case**, the **appellate** court may vacate the judgment or order from which the appeal was taken and remand the matter to the trial court to reconsider the judgment or order, or any [*order entered*] **intermediate decision** by the trial court. [*Upon*] **On** remand, the trial court shall have jurisdiction to enter a [*revised*] **modified** judgment or order**, or to reenter the vacated judgment or order**.

(2) After entry of a [*modified*] judgment or order [*on reconsideration, or upon reentry of the original judgment or order*] **under subsection (1) of this section**, either party may appeal in the same time and manner as an appeal from the original judgment or order.

SECTION 17. ORS 138.261 is amended to read:

138.261. (1) When a defendant is charged with a felony and is in custody pending an appeal under ORS 138.060 (1)(a) or [*(c)*] **(d)**, the Court of Appeals and the Supreme Court shall decide the appeal within the time limits prescribed by this section.

(2)(a) Pursuant to rules adopted by the Court of Appeals, the Court of Appeals shall ensure that the appeal is fully briefed no later than 90 days after the date the transcript is settled under ORS 19.370.

(b) Notwithstanding paragraph (a) of this subsection, the Court of Appeals may allow more than 90 days after the transcript is settled to fully brief the appeal if it determines that the ends of justice served by allowing more time outweigh the best interests of the public, the parties and the victim of the crime.

(3) The Court of Appeals shall decide the appeal no later than 180 days after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Court of Appeals for decision. Any reasonable period of delay incurred by the Court of Appeals on its own motion or at the request of one of the parties is excluded from the 180-day period within which the Court of Appeals is required to issue a decision if the Court of Appeals determines that the ends of justice served by a decision on a later date outweigh the best interests of the public, the parties and the victim of the crime.

(4)(a) In determining whether to allow more than 90 days after the transcript is settled to fully brief the appeal or more than 180 days after oral argument or delivery of the briefs to decide the appeal, the Court of Appeals shall consider whether:

(A) The appeal is unusually complex or presents novel questions of law so that the prescribed time limit is unreasonable; and

(B) The failure to extend the time limit would likely result in a miscarriage of justice.

(b) If the Court of Appeals decides to allow additional time to fully brief the appeal or to decide the appeal, the Court of Appeals shall state the reasons for doing so in writing and shall serve a copy of the writing on the parties.

(5) If the Supreme Court allows review of a decision of the Court of Appeals on an appeal described in subsection (1) of this section, the Supreme Court shall issue its decision on review no later than 180 days after the date of oral argument or, if the review is not orally argued, the date the State Court Administrator delivers the briefs to the Supreme Court for decision. Any reasonable period of delay incurred by the Supreme Court on its own motion or at the request of one of the parties is excluded from the 180-day period within which the Supreme Court is required to issue a decision if the Supreme Court determines that the ends of justice served by a decision on a later date outweigh the best interests of the public, the parties and the victim of the crime.

(6) In an appeal by the state under ORS 138.060 (2), the Supreme Court shall issue its decision no later than one year after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Supreme Court for decision.

[*(6)(a)*] **(7)(a)** In determining whether to allow more than 180 days after oral argument or delivery of the briefs to decide the review, the Supreme Court shall consider whether:

(A) The review is unusually complex or presents novel questions of law so that the prescribed time limit is unreasonable; and

(B) The failure to extend the time limit would likely result in a miscarriage of justice.

(b) If the Supreme Court decides to allow additional time to decide the review, the Supreme Court shall state the reasons for doing so in writing and shall serve a copy of the writing on the parties.

[*(7)*] **(8)** Failure of the Court of Appeals or the Supreme Court to decide an appeal or review within the time limits prescribed in this section is not a ground for dismissal of the appeal or review.

[*(8)*] **(9)** Any delay sought or acquiesced in by the defendant does not count against the state with respect to any statutory or constitutional right of the defendant to a speedy trial.

JUDGMENTS

SECTION 18. (1) Section 19 of this 2017 Act is added to and made a part of ORS 137.101 to 137.109.

(2) Section 20 of this 2017 Act is added to and made a part of ORS chapter 137.

SECTION 19. (1) The trial court retains authority during the pendency of an appeal to determine restitution and to enter a supplemental judgment specifying the amount and terms of restitution or an order denying restitution.

(2) If the trial court enters a supplemental judgment or an order under subsection (1) of this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the supplemental judgment or the order to the appellate court.

SECTION 20. (1) The trial court retains authority after entry of judgment of conviction or a supplemental judgment, including during the pendency of an appeal, to modify the judgment, including the sentence, to correct any arithmetic or clerical errors or to delete or modify any erroneous term in the judgment. The court may correct the judgment either on the motion of one of the parties or on the court's own motion after written notice to all of the parties.

(2) If the trial court enters a corrected judgment under this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the corrected judgment to the appellate court.

CONFORMING AMENDMENTS

SECTION 21. ORS 40.460 is amended to read:

40.460. The following are not excluded by ORS 40.455, even though the declarant is available as a witness:

(1) (Reserved.)

(2) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain or bodily health, but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of the declarant's will.

(4) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the memory of the witness and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method of circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this subsection includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, and in any form, kept in accordance with the provisions of subsection (6) of this section, to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Records, reports, statements or data compilations, in any form, of public offices or agencies, including federally recognized American Indian tribal governments, setting forth:

(a) The activities of the office or agency;

(b) Matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, in criminal cases, matters observed by police officers and other law enforcement personnel;

(c) In civil actions and proceedings and against the government in criminal cases, factual findings, resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness; or

(d) In civil actions and criminal proceedings, a sheriff's return of service.

(9) Records or data compilations, in any form, of births, fetal deaths, deaths or marriages, if the report thereof was made to a public office, including a federally recognized American Indian tribal government, pursuant to requirements of law.

(10) To prove the absence of a record, report, statement or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement or data compilation, in any form, was regularly made and preserved by a public office or agency, including a federally recognized American Indian tribal government, evidence in the form of a certification in accordance with ORS 40.510, or testimony, that diligent search failed to disclose the record, report, statement or data compilation, or entry.

(11) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) A statement of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a member of the clergy, a public official, an official of a federally recognized American Indian tribal government or any other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Statements of facts concerning personal or family history contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) The record of a document purporting to establish or affect an interest in property, as proof of content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office, including a federally recognized American Indian tribal government, and an applicable statute authorizes the recording of documents of that kind in that office.

(15) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in a document in existence 20 years or more the authenticity of which is established.

(17) Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) (Reserved.)

(18a)(a) A complaint of sexual misconduct, complaint of abuse as defined in ORS 107.705 or 419B.005, complaint of abuse of an elderly person, as those terms are defined in ORS 124.050, or a complaint relating to a violation of ORS 163.205 or 164.015 in which a person 65 years of age or older is the victim, made by the witness after the commission of the alleged misconduct or abuse at issue. Except as provided in paragraph (b) of this subsection, such evidence must be confined to the fact that the complaint was made.

(b) A statement made by a person concerning an act of abuse as defined in ORS 107.705 or 419B.005, a statement made by a person concerning an act of abuse of an elderly person, as those terms are defined in ORS 124.050, or a statement made by a person concerning a violation of ORS 163.205 or 164.015 in which a person 65 years of age or older is the victim, is not excluded by ORS 40.455 if the declarant either testifies at the proceeding and is subject to cross-examination, or is unavailable as a witness but was chronologically or mentally under 12 years of age when the statement was made or was 65 years of age or older when the statement was made. However, if a declarant is unavailable, the statement may be admitted in evidence only if the proponent estab-

lishes that the time, content and circumstances of the statement provide indicia of reliability, and in a criminal trial that there is corroborative evidence of the act of abuse and of the alleged perpetrator's opportunity to participate in the conduct and that the statement possesses indicia of reliability as is constitutionally required to be admitted. No statement may be admitted under this paragraph unless the proponent of the statement makes known to the adverse party the proponent's intention to offer the statement and the particulars of the statement no later than 15 days before trial, except for good cause shown. For purposes of this paragraph, in addition to those situations described in ORS 40.465 (1), the declarant shall be considered "unavailable" if the declarant has a substantial lack of memory of the subject matter of the statement, is presently incompetent to testify, is unable to communicate about the abuse or sexual conduct because of fear or other similar reason or is substantially likely, as established by expert testimony, to suffer lasting severe emotional trauma from testifying. Unless otherwise agreed by the parties, the court shall examine the declarant in chambers and on the record or outside the presence of the jury and on the record. The examination shall be conducted immediately prior to the commencement of the trial in the presence of the attorney and the legal guardian or other suitable person as designated by the court. If the declarant is found to be unavailable, the court shall then determine the admissibility of the evidence. The determinations shall be appealable under ORS 138.060 [*(1)(c) or (2)(a)*] **(1)(d)**. The purpose of the examination shall be to aid the court in making its findings regarding the availability of the declarant as a witness and the reliability of the statement of the declarant. In determining whether a statement possesses indicia of reliability under this paragraph, the court may consider, but is not limited to, the following factors:

(A) The personal knowledge of the declarant of the event;

(B) The age and maturity of the declarant or extent of disability if the declarant is a person with a developmental disability;

(C) Certainty that the statement was made, including the credibility of the person testifying about the statement and any motive the person may have to falsify or distort the statement;

(D) Any apparent motive the declarant may have to falsify or distort the event, including bias, corruption or coercion;

(E) The timing of the statement of the declarant;

(F) Whether more than one person heard the statement;

(G) Whether the declarant was suffering pain or distress when making the statement;

(H) Whether the declarant's young age or disability makes it unlikely that the declarant fabricated a statement that represents a graphic, detailed account beyond the knowledge and experience of the declarant;

(I) Whether the statement has internal consistency or coherence and uses terminology appropriate to the declarant's age or to the extent of the declarant's disability if the declarant is a person with a developmental disability;

(J) Whether the statement is spontaneous or directly responsive to questions; and

(K) Whether the statement was elicited by leading questions.

(c) This subsection applies to all civil, criminal and juvenile proceedings.

(d) This subsection applies to a child declarant, a declarant who is an elderly person as defined in ORS 124.050 or an adult declarant with a developmental disability. For the purposes of this subsection, "developmental disability" means any disability attributable to mental retardation, autism, cerebral palsy, epilepsy or other disabling neurological condition that requires training or support similar to that required by persons with mental retardation, if either of the following apply:

(A) The disability originates before the person attains 22 years of age, or if the disability is attributable to mental retardation the condition is manifested before the person attains 18 years of age, the disability can be expected to continue indefinitely, and the disability constitutes a substantial handicap to the ability of the person to function in society.

(B) The disability results in a significant subaverage general intellectual functioning with concurrent deficits in adaptive behavior that are manifested during the developmental period.

(19) Reputation among members of a person's family by blood, adoption or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood or adoption or marriage, ancestry, or other similar fact of a person's personal or family history.

(20) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation of a person's character among associates of the person or in the community.

(22) Evidence of a final judgment, entered after a trial or upon a plea of guilty, but not upon a plea of no contest, adjudging a person guilty of a crime other than a traffic offense, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) Notwithstanding the limits contained in subsection (18a) of this section, in any proceeding in which a child under 12 years of age at the time of trial, or a person with a developmental disability as described in subsection (18a)(d) of this section, may be called as a witness to testify concerning an act of abuse, as defined in ORS 419B.005, or sexual conduct performed with or on the child or person with a developmental disability by another, the testimony of the child or person with a developmental disability taken by contemporaneous examination and cross-examination in another place under the supervision of the trial judge and communicated to the courtroom by closed-circuit television or other audiovisual means. Testimony will be allowed as provided in this subsection only if the court finds that there is a substantial likelihood, established by expert testimony, that the child or person with a developmental disability will suffer severe emotional or psychological harm if required to testify in open court. If the court makes such a finding, the court, on motion of a party, the child, the person with a developmental disability or the court in a civil proceeding, or on motion of the district attorney, the child or the person with a developmental disability in a criminal or juvenile proceeding, may order that the testimony of the child or the person with a developmental disability be taken as described in this subsection. Only the judge, the attorneys for the parties, the parties, individuals necessary to operate the equipment and any individual the court finds would contribute to the welfare and well-being of the child or person with a developmental disability may be present during the testimony of the child or person with a developmental disability.

(25)(a) Any document containing data prepared or recorded by the Oregon State Police pursuant to ORS 813.160 (1)(b)(C) or (E), or pursuant to ORS 475.235 (4), if the document is produced by data retrieval from the Law Enforcement Data System or other computer system maintained and operated by the Oregon State Police, and the person retrieving the data attests that the information was retrieved directly from the system and that the document accurately reflects the data retrieved.

(b) Any document containing data prepared or recorded by the Oregon State Police that is produced by data retrieval from the Law Enforcement Data System or other computer system maintained and operated by the Oregon State Police and that is electronically transmitted through public or private computer networks under an electronic signature adopted by the Oregon State Police if the person receiving the data attests that the document accurately reflects the data received.

(c) Notwithstanding any statute or rule to the contrary, in any criminal case in which documents are introduced under the provisions of this subsection, the defendant may subpoena the analyst, as defined in ORS 475.235 (6), or other person that generated or keeps the original document for the purpose of testifying at the preliminary hearing and trial of the issue. Except as provided in ORS 44.550 to 44.566, no charge shall be made to the defendant for the appearance of the analyst or other person.

(26)(a) A statement that purports to narrate, describe, report or explain an incident of domestic violence, as defined in ORS 135.230, made by a victim of the domestic violence within 24 hours after the incident occurred, if the statement:

(A) Was recorded, either electronically or in writing, or was made to a peace officer as defined in ORS 161.015, corrections officer, youth correction officer, parole and probation officer, emergency medical services provider or firefighter; and

(B) Has sufficient indicia of reliability.

(b) In determining whether a statement has sufficient indicia of reliability under paragraph (a) of this subsection, the court shall consider all circumstances surrounding the statement. The court may consider, but is not limited to, the following factors in determining whether a statement has sufficient indicia of reliability:

(A) The personal knowledge of the declarant.

(B) Whether the statement is corroborated by evidence other than statements that are subject to admission only pursuant to this subsection.

(C) The timing of the statement.

(D) Whether the statement was elicited by leading questions.

(E) Subsequent statements made by the declarant. Recantation by a declarant is not sufficient reason for denying admission of a statement under this subsection in the absence of other factors indicating unreliability.

(27) A report prepared by a forensic scientist that contains the results of a presumptive test conducted by the forensic scientist as described in ORS 475.235, if the forensic scientist attests that the report accurately reflects the results of the presumptive test.

(28)(a) A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that:

(A) The statement is relevant;

(B) The statement is more probative on the point for which it is offered than any other evidence that the proponent can procure through reasonable efforts; and

(C) The general purposes of the Oregon Evidence Code and the interests of justice will best be served by admission of the statement into evidence.

(b) A statement may not be admitted under this subsection unless the proponent of it makes known to the adverse party the intention to offer the statement and the particulars of it, including the name and address of the declarant, sufficiently in advance of the trial or hearing, or as soon as practicable after it becomes apparent that such statement is probative of the issues at hand, to provide the adverse party with a fair opportunity to prepare to meet it.

SECTION 22. ORS 136.434 is amended to read:

136.434. (1) Except as provided in ORS 813.328, if an accusatory instrument or the written notice described in ORS 136.765 (2) alleges that the defendant has previously been convicted of an offense, the defendant may challenge the validity of the previous conviction by filing a notice of the defendant's intent to do so. The notice must:

(a) Identify the previous conviction that the defendant seeks to challenge;

(b) Specify the factual and legal basis for the challenge; and

(c) Be filed with the court and served on the district attorney within 35 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless a different time is permitted by the court for good cause shown.

(2) The validity of the previous conviction shall be determined by the court before trial. At the hearing on the defendant's challenge:

(a) The state has the burden of proving by a preponderance of the evidence that the defendant previously was convicted of the offense; and

(b) The defendant has the burden of proving by a preponderance of the evidence that the previous conviction is not valid.

(3) If the court determines that the defendant was not previously convicted of the offense that is the subject of the challenge or that the previous conviction is not valid, the court shall enter an

order prior to trial that so provides and excludes evidence of the previous conviction. The state may appeal from the order pursuant to ORS 138.060 [*(1)(c) or (2)(a)*] **(1)(d)**.

(4) If the court determines that the defendant previously was convicted of the offense and that the conviction is valid, or if the defendant does not file and serve a notice under subsection (1) of this section, the previous conviction shall be admitted at trial or, if the previous conviction is relevant to an enhancement fact described in ORS 136.770 (4) or 136.773 (1), during the sentencing phase of the proceeding. If the previous conviction is admitted, the defendant may dispute whether the defendant previously was convicted of the alleged offense but may not challenge the validity of the conviction. If the previous conviction is a material element of the charged offense or is an enhancement fact, the state must prove the previous conviction beyond a reasonable doubt unless the defendant stipulates to the fact of the previous conviction in accordance with ORS 136.433.

(5) For purposes of this section, a previous conviction is not valid if:

(a) In the proceedings resulting in the conviction, the defendant was not represented by counsel and was deprived of the right to counsel in violation of the state or federal Constitution and the defendant is entitled under either Constitution to challenge the validity of the prior conviction in the proceeding before the court.

(b) Before the defendant committed the charged offense, the previous conviction was vacated by the court of conviction, reversed or set aside by a court of competent jurisdiction, expunged or pardoned.

SECTION 23. ORS 137.020 is amended to read:

137.020. (1) After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, if the judgment is not arrested or a new trial granted, the court shall appoint a time for pronouncing judgment.

(2)(a) The time appointed shall be at least two calendar days after the plea or verdict if the court intends to remain in session so long. If the court does not intend to remain in session at least two calendar days, the time appointed may be sooner than two calendar days, but shall be as remote a time as can reasonably be allowed. However, in the latter case, the judgment shall not be given less than six hours after the plea or verdict, except with the consent of the defendant.

(b) Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 31 calendar days after the plea or verdict the sentencing of a defendant held in custody on account of the pending proceedings. Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 56 calendar days after the plea or verdict the sentencing of a defendant not held in custody on account of the pending proceedings. If the defendant is not in custody and the court does not pronounce judgment within 56 calendar days after the plea or verdict, any period of probation imposed as a part of a subsequent judgment shall begin to run from the date of the plea or verdict.

(3) If the defendant is in custody following the verdict, the court shall pronounce judgment as soon as practicable, but in any case within seven calendar days following the verdict if no presentence investigation is ordered, and within seven calendar days after delivery of the presentence report to the court if a presentence investigation has been ordered; however, the court may delay pronouncement of judgment beyond the limits of this subsection for good cause shown.

(4) If the final calendar day a defendant must be sentenced is not a judicial day then sentencing may be delayed until the next judicial day.

(5)(a) At the time a court pronounces judgment the defendant, if present, shall be advised of the right to appeal and of the procedure for protecting that right. If the defendant is not present, the court shall advise the defendant in writing of the right to appeal and of the procedure for protecting that right.

(b) If **the trial court sentences** the defendant [*is sentenced*] subsequent to a plea of guilty or no contest or upon probation revocation or sentence suspension, or if **the trial court sentences** the defendant [*is resentenced*] after [*an order by*] **judgment of** an appellate court or a post-conviction relief court, the court shall advise the defendant of the limitations on [*appealability*] **reviewability** imposed by [*ORS 138.050 (1) and 138.222 (7)*] **section 13 of this 2017 Act in person or, if the de-**

fendant is not present, in writing. [*If the defendant is not present, the court shall advise the defendant in writing of the limitations on appealability imposed by ORS 138.050 (1) and 138.222 (7).*]

(6) If the defendant is financially eligible for appointment of counsel at state expense on appeal under ORS 138.500, trial counsel shall determine whether the defendant wishes to pursue an appeal. If the defendant wishes to pursue an appeal, trial counsel shall transmit to the office of public defense services established under ORS 151.216, on a form prepared by the office, information necessary to perfect the appeal.

SECTION 24. ORS 137.079 is amended to read:

137.079. (1) A copy of the presentence report and all other written information concerning the defendant that the court considers in the imposition of sentence shall be made available to the district attorney, the defendant or defendant's counsel at least five judicial days before the sentencing of the defendant. All other written information, when received by the court outside the presence of counsel, shall either be summarized by the court in a memorandum available for inspection or summarized by the court on the record before sentence is imposed.

(2) The court may except from disclosure parts of the presentence report or other written information described in subsection (1) of this section which are not relevant to a proper sentence, diagnostic opinions which might seriously disrupt a program of rehabilitation if known by the defendant, or sources of information which were obtainable with an expectation of confidentiality.

(3) If parts of the presentence report or other written information described in subsection (1) of this section are not disclosed under subsection (2) of this section, the court shall inform the parties that information has not been disclosed and shall state for the record the reasons for the court's action. The action of the court in excepting information shall be reviewable on appeal.

(4) A defendant who is being sentenced for felonies committed prior to November 1, 1989, may file a written motion to correct the criminal history contained in the presentence report prior to the date of sentencing. At sentencing, the court shall consider defendant's motion to correct the presentence report and shall correct any factual errors in the criminal history contained in that report. An order allowing or denying a motion made pursuant to this subsection shall not be reviewable on appeal. If corrections are made by the court, only corrected copies of the report shall be provided to individuals or agencies pursuant to ORS 137.077.

(5)(a) The provisions of this subsection apply only to a defendant being sentenced for a felony committed on or after November 1, 1989.

(b) Except as otherwise provided in paragraph (c) of this subsection, the defendant's criminal history as set forth in the presentence report shall satisfy the state's burden of proof as to the defendant's criminal history.

(c) Prior to the date of sentencing, the defendant shall notify the district attorney and the court in writing of any error in the criminal history as set forth in the presentence report. Except to the extent that any disputed portion is later changed by agreement of the district attorney and defendant with the approval of the court, the state shall have the burden of proving by a preponderance of evidence any disputed part of the defendant's criminal history. The court shall allow the state reasonable time to produce evidence to meet its burden.

(d) The court shall correct any error in the criminal history as reflected in the presentence report.

(e) If corrections to the presentence report are made by the court, only corrected copies of the report shall be provided to individuals or agencies pursuant to ORS 137.077.

(f) Except as provided in [*ORS 138.222*] **sections 13 and 14 of this 2017 Act**, the court's decision on issues relating to a defendant's criminal history shall not be reviewable on appeal.

SECTION 25. ORS 138.697 is amended to read:

138.697. (1) A person described in ORS 138.690 may appeal to the Court of Appeals from a circuit court's final order or judgment denying or limiting DNA (deoxyribonucleic acid) testing under ORS 138.692, denying appointment of counsel under ORS 138.694 or denying a motion for a new trial under ORS 138.696.

(2) The state may appeal to the Court of Appeals from a circuit court's final order or judgment granting a motion for DNA testing under ORS 138.692 or granting a motion for a new trial under ORS 138.696.

(3) The time limits described in ORS 138.071, the notice requirements described in ORS 138.081 and 138.090 and the provisions of ORS 138.225, 138.227[*, 138.240, 138.250*] and 138.255 **and section 15 of this 2017 Act** apply to appeals under this section unless the context requires otherwise.

(4) A circuit court shall appoint counsel to represent a person described in ORS 138.690 on appeal in the same manner as for criminal defendants under ORS 138.500.

REPEALS

SECTION 26. ORS 136.130, 136.140, 138.040, 138.050, 138.053, 138.083, 138.110, 138.120, 138.220, 138.222, 138.230, 138.240, 138.250 and 138.300 are repealed.

CAPTIONS

SECTION 27. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

APPLICABILITY

SECTION 28. Sections 3, 6, 10, 12, 13, 14, 15, 19 and 20 of this 2017 Act, the amendments to ORS 40.460, 136.120, 136.434, 137.020, 137.079, 138.005, 138.060, 138.071, 138.081, 138.185, 138.210, 138.227, 138.261 and 138.697 by sections 1, 4, 5, 7, 8, 9, 11, 16, 17, 21, 22, 23, 24 and 25 of this 2017 Act and the repeal of ORS 136.130, 136.140, 138.040, 138.050, 138.053, 138.083, 138.110, 138.120, 138.220, 138.222, 138.230, 138.240, 138.250 and 138.300 by section 26 of this 2017 Act apply on appeal from a judgment or order entered by the trial court on or after the effective date of this 2017 Act.

Passed by Senate June 14, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 21, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State