



CIRCUIT COURT OF THE STATE OF OREGON

FOURTH JUDICIAL DISTRICT
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MELVIN ODEN-ORR
JUDGE

February 10, 2020

Members of the legislature

Re: Supporting Passage of House Bill 4142

I am a Multnomah County Circuit Court judge. I have had the great privilege of serving the people of Oregon since January 2018, just over two years. I am also a member of the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF). I write today to support the passage of House Bill 4142.

In 2019, Chief Justice Martha Walters began a strategic planning process that resulted in a two-year Strategic Campaign to address some of the Court's most pressing concerns in our ongoing effort to provide justice for all Oregonians. One of the four commitments embodied in the strategic campaign reads:

“We will join with community partners to improve services and outcomes for people who are **underserved, vulnerable, or marginalized**; and we will develop effective, supportive, and creative solutions to respond to their legal needs.”

One of the key initiatives in support of the commitment to improve outcomes for the underserved, vulnerable and marginalized in our communities relates to the Court's process for imposing fines and fees. I am part of the team in the Judicial Department that will be examining the impacts of fines and fees and developing best practices for their imposition. One key aspect of that effort is to ensure the imposition of fines and fees does not create unnecessary barriers or disproportionate outcomes. For example, we know outstanding fines and fees—rightly or wrongly—can impact a person's ability to hold a driver's license. We in Multnomah County have seen one of the unintended consequences of our fines and fee system: people without the financial ability to pay being further punished.

In Multnomah County, in cooperation with the District Attorney's Office, Metropolitan Public Defender Services, Inc., and a local nonprofit, The Rosewood Initiative, we hold a periodic Legal Services Day. On that day, people appear in front of a judge at a local community center and seek to have community service and/or treatment count toward the payment of outstanding fines and fees levied by the Court. On the day I presided in 2019, over 100 people appeared and over \$335,000.00 in fines and fees were waived in exchange for more than 2,100 hours of community service and treatment. That was just one day. The program does not discharge restitution, compensatory fines, child support, or money owed to Municipal Courts.

What this program reflects, in my opinion, is that fines and fees are not going unpaid simply because people are recalcitrant lawbreakers, but because—in large segments of our communities—decisions are being made about how best to manage limited financial resources. As shown through Multnomah County’s Legal Service Days, unfortunately, many in our communities have more time than money, thus reflecting that, to a great degree, fines and fees may have a disproportionate impact on lower-income members of our communities.

House Bill 4142 touches on two aspects of our fine and fee system: (1) the service charge levied when a person must make payment arrangements, and (2) collection fees when the fine or fee is referred for collections.

ORS 1.202(1) provides in relevant part:

All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, shall add a fee of not less than \$50 and not more than \$200 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. * * *

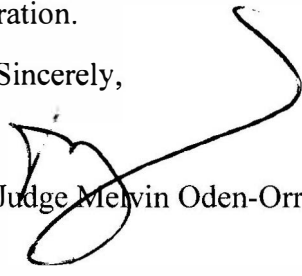
An additional fee based on the cost of collections is levied when the fine or fee is referred for collection. ORS 1.202(2) provides in relevant part:

All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, that use private collection agencies, the Department of Revenue or an offset of federal tax refunds pursuant to an agreement entered into under ORS 1.196 (Agreement for reciprocal offsets) shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. A fee to cover the costs of collecting judgments referred to the private collection agency, the Department of Revenue, the United States Financial Management Service or the Internal Revenue Service shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collecting the judgment.

House Bill 4142 does two things. First, it gives the Chief Justice the discretion to authorize *or direct* the waiver or suspension of these service charges and collection fees. This authority will give my group the ability to provide recommendations to the Chief Justice about when and under what circumstances a waiver or suspension might be appropriate. It also provides the Chief Justice the flexibility to act on those recommendations in a timely fashion, including implementing pilot projects. Second, it makes clear that restitution and compensatory fines in criminal judgments are outside the scope of that discretion.

For these reasons, I urge passage of House Bill 4142. Thank you for your time and consideration.

Sincerely,



Judge Melvin Oden-Orr