

Requested by JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

**PROPOSED AMENDMENTS TO
HOUSE BILL 4212**

1 Delete pages 6 and 7 of the printed bill and insert:

2 **“SECTION 6. (1)(a) Notwithstanding any other statute or rule to the**
3 **contrary, during the time in which any declaration of a state of**
4 **emergency issued by the Governor related to COVID-19, and any ex-**
5 **ension of the declaration, is in effect, and continuing for 60 days after**
6 **the declaration and any extension is no longer in effect, and upon a**
7 **finding of good cause, the Chief Justice of the Supreme Court may**
8 **extend or suspend any time period or time requirement established by**
9 **statute or rule that:**

10 **“(A) Applies in any case, action or proceeding after the case, action**
11 **or proceeding is initiated in any circuit court, the Oregon Tax Court,**
12 **the Court of Appeals or the Supreme Court;**

13 **“(B) Applies to the initiation of an appeal to the magistrate division**
14 **of the Oregon Tax Court or an appeal from the magistrate division to**
15 **the regular division;**

16 **“(C) Applies to the initiation of an appeal or judicial review pro-**
17 **ceeding in the Court of Appeals; or**

18 **“(D) Applies to the initiation of any type of case or proceeding in**
19 **the Supreme Court.**

20 **“(b) The Chief Justice may extend or suspend a time period or time**
21 **requirement under this subsection notwithstanding the fact that the**

1 date of the time period or time requirement has already passed as of
2 the effective date of this 2020 special session Act.

3 “(2)(a) Notwithstanding ORS 133.060 (1), during the time in which
4 any declaration of a state of emergency issued by the Governor related
5 to COVID-19, and any extension of the declaration, is in effect, and
6 continuing for 90 days after the declaration and any extension is no
7 longer in effect, the date specified in a criminal citation on which a
8 person served with the citation shall appear may be more than 30 days
9 after the date the citation was issued.

10 “(b) During the time in which any declaration of a state of emer-
11 gency issued by the Governor related to COVID-19, and any extension
12 of the declaration, is in effect, and continuing for 60 days after the
13 declaration and any extension is no longer in effect, the presiding
14 judge of a circuit court may, upon the motion of a party or the court’s
15 own motion, and upon a finding of good cause, postpone the date of
16 appearance described in paragraph (a) of this subsection for all pro-
17 ceedings within the jurisdiction of the court.

18 “(3)(a) Notwithstanding ORS 136.290 and 136.295, and subject to
19 paragraph (b) of this subsection, during the time in which any decla-
20 ration of a state of emergency issued by the Governor related to
21 COVID-19, and any extension of the declaration, is in effect, and con-
22 tinuing for 60 days after the declaration and any extension is no longer
23 in effect, the presiding judge of a circuit court may, upon the motion
24 of a party or its own motion, and upon a finding of good cause, order
25 an extension of custody and postponement of the date of the trial be-
26 yond the time limits described in ORS 136.290 and 136.295.

27 “(b) Notwithstanding paragraph (a) of this subsection, for a de-
28 fendant to whom ORS 136.290 and 136.295 applies, the presiding judge
29 may not extend custody and postpone the defendant’s trial date if, as
30 a result, the defendant will be held in custody before trial for more

1 than a total of 180 days, unless the court holds a hearing and proceeds
2 as follows:

3 “(A) If the defendant is charged with a violent felony, the court
4 may deny release upon making the findings described in ORS 135.240
5 (4), notwithstanding the fact that a court did not previously make
6 such findings; or

7 “(B) If the defendant is charged with a person crime, the court may
8 set a trial date that results in the defendant being held in custody
9 before trial for more than a total of 180 days, but not more than a total
10 of 240 days, if the court:

11 “(i) Determines the extension of custody is based upon good cause
12 due to circumstances caused by the COVID-19 pandemic, public health
13 measures resulting from the COVID-19 pandemic or a situation de-
14 scribed in ORS 136.295 (4)(b) caused by or related to COVID-19; and

15 “(ii) Finds, by clear and convincing evidence, that there is a sub-
16 stantial and specific danger of physical injury or sexual victimization
17 to the victim or members of the public by the defendant if the de-
18 fendant is released, and that no release condition, or combination of
19 release conditions, is available that would sufficiently mitigate the
20 danger.

21 “(c) The result of a hearing held pursuant to this subsection does
22 not affect the ability of a party to request a modification of the release
23 decision under ORS 135.285.

24 “(d) This subsection does not authorize a defendant to be held in
25 custody before trial for a period longer than the maximum term of
26 imprisonment the defendant could receive as a sentence under ORS
27 161.605 and 161.615.

28 “(e) If the court proceeds under paragraph (b)(B) of this subsection,
29 the defendant shall continue to be eligible for security release and the
30 court may maintain, lower or raise the security amount at the hear-

1 **ing.**

2 **“(f) As used in this subsection:**

3 **“(A) ‘Good cause’ means situations described in ORS 136.295 (4)(b),**
4 **circumstances caused by the COVID-19 pandemic or public health**
5 **measures resulting from the COVID-19 pandemic.**

6 **“(B) ‘Person crime’ means a person felony or person Class A**
7 **misdemeanor, as those terms are defined in the rules of the Oregon**
8 **Criminal Justice Commission.**

9 **“(C) ‘Release decision’ has the meaning given that term in ORS**
10 **135.230.**

11 **“(4)(a) Notwithstanding any other statute or rule to the contrary,**
12 **during the time in which any declaration of a state of emergency is-**
13 **ssued by the Governor related to COVID-19, and any extension of the**
14 **declaration, is in effect, and continuing for 90 days after the declara-**
15 **tion and any extension is no longer in effect, the Chief Justice may**
16 **direct or permit any appearance before a court or magistrate to be by**
17 **telephone, other two-way electronic communication device or simul-**
18 **taneous electronic transmission.**

19 **“(b) If an appearance is set to occur by electronic means as de-**
20 **scribed in paragraph (a) of this subsection, a presiding judge may in-**
21 **stead order that the appearance be in person if, upon the request of a**
22 **party, the presiding judge determines that there is a particular need**
23 **for an in-person hearing or that a party has a constitutional right to**
24 **an in-person hearing.**

25 **“(5) The Chief Justice may delegate the exercise of any of the**
26 **powers described in this section to the presiding judge of a court.**

27 **“(6) Nothing in this section affects the rights of a defendant under**
28 **the Oregon and United States Constitutions.”.**

29