

A-Engrossed
Senate Bill 296

Ordered by the Senate April 1
Including Senate Amendments dated April 1

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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.

Authorizes Chief Justice of Supreme Court, during period of statewide emergency and upon finding of good cause, to extend or suspend time period or time requirement in rule or statute in specified court proceedings. Authorizes Chief Justice to direct or permit electronic court appearances during period of statewide emergency.

[Authorizes presiding judge of circuit court, during period of statewide emergency, to extend custody and postpone trials upon finding of good cause, and within specified limits.]

Authorizes date of appearance in criminal citation to be more than 30 days after citation issuance date during period of statewide emergency.

Extends sunset, from December 31, 2021, to December 31, 2022, on provisions granting Chief Justice of Supreme Court and presiding judge of circuit court certain authority during emergency related to COVID-19, including authority to extend custody and postpone criminal trials upon finding of good cause and within specified limits.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to judicial authority during statewide emergencies; creating new provisions; amending ORS
3 1.002, 1.012 and 133.060 and section 8, chapter 12, Oregon Laws 2020 (first special session); and
4 declaring an emergency.

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

6 **SECTION 1.** ORS 1.002 is amended to read:

7 1.002. (1) The Supreme Court is the highest judicial tribunal of the judicial department of gov-
8 ernment in this state. The Chief Justice of the Supreme Court is the presiding judge of the court
9 and the administrative head of the judicial department of government in this state. The Chief Justice
10 shall exercise administrative authority and supervision over the courts of this state consistent with
11 applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate
12 exercise of that administrative authority and supervision, may:

13 (a) Make rules and issue orders appropriate to that exercise.

14 (b) Require appropriate reports from the judges, other officers and employees of the courts of
15 this state and municipal courts.

16 (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or
17 reassign on a temporary basis all judges of the courts of this state to serve in designated locations
18 within or without the county or judicial district for which the judge was elected.

19 (d) Set staffing levels for all courts of the state operating under the Judicial Department and for
20 all operations in the Judicial Department.

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 (e) Establish time standards for disposition of cases.
- 2 (f) Establish budgets for the Judicial Department and all courts operating under the Judicial
3 Department.
- 4 (g) Assign or reassign all court staff of courts operating under the Judicial Department.
- 5 (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish
6 personnel rules and policies for judges of courts operating under the Judicial Department.
- 7 (i) Establish procedures for closing courts in emergencies.
- 8 (j) Establish standards for determining when courts are closed for purposes of ORCP 10, ORS
9 174.120 and other rules and laws that refer to periods of time when courts are closed.
- 10 (k) Take any other action appropriate to the exercise of the powers specified in this section and
11 other law, and appropriate to the exercise of administrative authority and supervision by the Chief
12 Justice over the courts of this state.
- 13 (2) The Chief Justice may make rules for the use of electronic applications in the courts, in-
14 cluding but not limited to rules relating to any of the following:
- 15 (a) Applications based on the use of the Internet and other similar technologies.
- 16 (b) The use of an electronic document, or use of an electronic image of a paper document in lieu
17 of the original paper copy, for any record of the courts maintained under ORS 7.095 and for any
18 document, process or paper that is served, delivered, received, filed, entered or retained in any
19 action or proceeding.
- 20 (c) The use of electronic signatures or another form of identification for any document, process
21 or paper that is required by any law or rule to be signed and that is:
- 22 (A) Served, delivered, received, filed, entered or retained in any action or proceeding; or
- 23 (B) Maintained under ORS 7.095.
- 24 (d) The use of electronic transmission for:
- 25 (A) Serving documents in an action or proceeding, other than a summons or an initial complaint
26 or petition;
- 27 (B) Filing documents with a court; and
- 28 (C) Providing certified electronic copies of court documents and other Judicial Department re-
29 cords to another person or public body.
- 30 (e) Payment of statutory or court-ordered monetary obligations through electronic media.
- 31 (f) Electronic storage of court documents.
- 32 (g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770,
33 including use of electronic citations for parking ordinance violations that are subject to ORS 221.333
34 or 810.425.
- 35 (h) Public access through electronic means to court documents that are required or authorized
36 to be made available to the public by law.
- 37 (i) Transmission of open court proceedings through electronic media.
- 38 (j) Electronic transmission and electronic signature on documents relating to circuit court jurors
39 under ORS 10.025.
- 40 (3) The Chief Justice may make rules relating to the data that state courts may require parties
41 and other persons to submit for the purpose of distinguishing particular persons from other persons.
42 If the rules require the submission of data that state or federal law does not require that the courts
43 make public, the rules may also require courts to keep the data confidential and not release the data
44 except pursuant to a court order issued for good cause shown. Data that is made confidential under
45 the rules is not subject to disclosure under ORS 192.311 to 192.478.

1 (4) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent
2 with the laws governing courts and court procedures, but any person who serves, delivers, receives,
3 files, enters or retains an electronic document, or an electronic image of a paper document in lieu
4 of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection
5 (2) of this section shall be considered to have complied with any rule or law governing service, de-
6 livery, reception, filing, entry or retention of a paper document.

7 (5)(a) As used in this subsection, “period of statewide emergency” means the period of
8 time during which any declaration of a state of emergency under ORS 401.165, public health
9 emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the
10 Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-
11 fect, and continuing for 60 days after the declaration and any extension is no longer in effect.

12 (b) During a period of statewide emergency, and upon a finding of good cause, the Chief
13 Justice may extend or suspend any time period or time requirement established by statute
14 or rule, other than ORS 133.060, 136.290 or 136.295, that:

15 (A) Applies in any case, action or proceeding after the case, action or proceeding is ini-
16 tiated in any circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme
17 Court;

18 (B) Applies to the initiation of an appeal to the magistrate division of the Oregon Tax
19 Court or an appeal from the magistrate division to the regular division;

20 (C) Applies to the initiation of an appeal or judicial review proceeding in the Court of
21 Appeals; or

22 (D) Applies to the initiation of any type of case or proceeding in the Supreme Court.

23 (c)(A) Notwithstanding any other statute or rule to the contrary, during a period of
24 statewide emergency, the Chief Justice may direct or permit any appearance before a court
25 or magistrate to be by telephone, other two-way electronic communication device or simul-
26 taneous electronic transmission.

27 (B) If an appearance is set to occur by electronic means as described in subparagraph (A)
28 of this paragraph, a presiding judge may instead order that the appearance be in person if,
29 upon the request of a party, the presiding judge determines that there is a particular need
30 for an in-person hearing or that a party has a constitutional right to an in-person hearing.

31 (C) Notwithstanding ORS 125.150 (3), during a period of statewide emergency, the Chief
32 Justice may direct or permit that any interview of a person described in ORS 125.150 (3) by
33 a visitor appointed by the court be conducted by telephone, other two-way electronic com-
34 munication device or simultaneous electronic transmission.

35 (D) The presiding judge may delegate the authority described in this paragraph to an-
36 other judge of the court.

37 (d) Nothing in this subsection affects the rights of a defendant under the Oregon and
38 United States Constitutions.

39 [(5)] (6) Rules made and orders issued by the Chief Justice under this section shall permit as
40 much variation and flexibility in the administration of the courts of this state as are appropriate to
41 the most efficient manner of administering each court, considering the particular needs and cir-
42 cumstances of the court, and consistent with the sound and efficient administration of the judicial
43 department of government in this state.

44 [(6)(a)] (7)(a) The Chief Justice may establish reasonable fees for the use of the Oregon Judicial
45 Case Information Network, including fees for electronic access to documents.

1 (b)(A) Before permanently adopting or increasing fees under this subsection, the Chief Justice
2 shall provide notice to interested persons and allow a reasonable opportunity for comment.

3 (B) Before temporarily adopting or increasing fees under this subsection, the Chief Justice shall
4 provide notice to interested persons.

5 (C) The Chief Justice shall by order establish a process for notice and comment under this
6 paragraph.

7 (c) Fees adopted under this subsection must be reasonably calculated to recover or offset costs
8 of developing, maintaining, supporting or providing access to or use of state court electronic appli-
9 cations and systems.

10 [(7)] (8) The judges, other officers and employees of the courts of this state shall comply with
11 rules made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a
12 judge thereof, relating to the conduct of the business of the court shall be consistent with applicable
13 rules made and orders issued by the Chief Justice.

14 [(8)] (9) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district
15 of this state are the administrative heads of their respective courts. They are responsible and ac-
16 countable to the Chief Justice of the Supreme Court in the exercise of their administrative authority
17 and supervision over their respective courts. Other judges of the Court of Appeals or court under
18 a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the
19 Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of admin-
20 istrative authority and supervision.

21 [(9)] (10) The Chief Justice may delegate the exercise of any of the powers specified by this
22 section to the presiding judge of a court, and may delegate the exercise of any of the administrative
23 powers specified by this section to the State Court Administrator, as may be appropriate.

24 [(10)] (11) This section applies to justices of the peace and the justice courts of this state solely
25 for the purpose of disciplining of justices of the peace and for the purpose of continuing legal edu-
26 cation of justices of the peace.

27 **SECTION 2.** ORS 133.060 is amended to read:

28 133.060. (1) A person who has been served with a criminal citation shall appear before a
29 magistrate of the county in which the person was cited at the time, date and court specified in the
30 citation, which shall not be later than 30 days after the date the citation was issued.

31 (2) If the cited person fails to appear at the time, date and court specified in the criminal cita-
32 tion, and a complaint or information is filed, the magistrate shall issue a warrant of arrest, upon
33 application for its issuance, upon the person's failure to appear.

34 (3)(a) **Notwithstanding subsection (1) of this section, during a period of statewide emer-**
35 **gency, the date specified in a criminal citation on which a person served with the citation**
36 **shall appear may be more than 30 days after the date the citation was issued.**

37 (b) **During a period of statewide emergency, the presiding judge of a circuit court may,**
38 **upon the motion of a party or the court's own motion, and upon a finding of good cause,**
39 **postpone the date of appearance described in paragraph (a) of this subsection for all pro-**
40 **ceedings within the jurisdiction of the court.**

41 (c) **The presiding judge may delegate the authority described in paragraph (b) of this**
42 **subsection to another judge of the court.**

43 (d) **Nothing in this subsection affects the rights of a defendant under the Oregon and**
44 **United States Constitutions.**

45 (e) **As used in this subsection, "period of statewide emergency" means the period of time**

1 during which any declaration of a state of emergency under ORS 401.165, public health
2 emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the
3 Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-
4 fect, and continuing for 60 days after the declaration and any extension is no longer in effect.

5 **SECTION 3.** Section 8, chapter 12, Oregon Laws 2020 (first special session) is amended to read:

6 **Sec. 8.** (1) [*Sections 6 and 7 of this 2020 special session Act are repealed on December 31, 2021.*]
7 **Section 6, chapter 12, Oregon Laws 2020 (first special session), is repealed on December 31,**
8 **2022.**

9 **(2) Section 7, chapter 12, Oregon Laws 2020 (first special session), is repealed on Decem-**
10 **ber 31, 2021.**

11 [(2)] (3) The repeal of section 6, [*of this 2020 special session Act*] **chapter 12, Oregon Laws 2020**
12 **(first special session),** by subsection (1) of this section does not affect the release status of a de-
13 fendant determined under section 6 (3), [*of this 2020 special session Act*] **chapter 12, Oregon Laws**
14 **2020 (first special session).**

15 **SECTION 4.** ORS 1.012 is amended to read:

16 1.012. (1) The State Court Technology Fund is established in the State Treasury, separate and
17 distinct from the General Fund. Interest earned by the State Court Technology Fund shall be
18 credited to the fund.

19 (2) All fees received on and after July 1, 2013, for the use of the Oregon Judicial Case Infor-
20 mation Network under ORS 1.002 [(6)] (7) and for the use of other state court electronic applications
21 and systems shall be deposited into the fund.

22 (3) The fund consists of the moneys deposited into the fund under subsection (2) of this section,
23 the moneys deposited into the fund under ORS 21.006 and the moneys allocated to the fund under
24 ORS 137.300.

25 (4) Moneys in the fund are continuously appropriated to the Judicial Department for the pur-
26 poses of:

27 (a) Developing, maintaining and supporting state court electronic applications, services and
28 systems and for providing access to and use of those applications, services and systems; and

29 (b) Providing electronic service and filing services.

30 **SECTION 5.** **The Chief Justice of the Supreme Court may exercise the authority de-**
31 **scribed in ORS 1.002 (5)(b) notwithstanding the fact that the date of the time period or time**
32 **requirement has already passed as of the effective date of this 2021 Act.**

33 **SECTION 6.** **This 2021 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
35 **on its passage.**

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