

HB 4120 STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

**Senate Committee On Judiciary and Ballot Measure 110
Implementation****Action Date:** 02/22/22**Action:** Do pass.**Vote:** 4-3-0-0**Yeas:** 4 - Dembrow, Gelser Blouin, Manning Jr, Prozanski**Nays:** 3 - Heard, Linthicum, Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Patricia Pascone, LPRO Analyst**Meeting Dates:** 2/21, 2/22**WHAT THE MEASURE DOES:**

Permits waiver or alternative conditions of payment for fines on violations if the court determines requiring payment would be inconsistent with justice when considering the ability to pay. Allows an adult in custody to seek filing fee waiver with a true copy of a trust account statement. Allows a habeas corpus petitioner to use a sworn declaration to demonstrate inability to pay fee. Limits additional fees for petitions requesting multiple fiduciaries or protective orders in protective proceedings. Limits additional fees for an amended affidavit in small estate probate matters. Authorizes Chief Justice to direct or permit remote appearances. Allows court to order appearance in-person upon a party's request if based on a particular need or constitutional right. Removes provisions regarding remote appearances during statewide emergency. Effective January 1, 2023 for all changes relating to court fines, fees, and forms of attestation. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Judicial discretion to waive fines in misdemeanor and felony cases under ORS 137.286
- Concern with "inconsistent with justice" language when considering fine waiver in violation cases
- Barriers to in-person appearances
- Authority for judges to require remote or in-person court proceedings

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Court fines and fees can impose significant hurdles for low-income persons, and inability to pay fines or appear in court can generate compounding penalties and collateral consequences. A 2018 courts survey in Oregon found that low-income Oregonians with civil court hearings reported problems accessing the courts due to denial of a filing fee waiver, inability to obtain transportation to court, and interference from family or work obligations. The Oregon Judicial Department commenced a Strategic Campaign in 2020 to improve services and outcomes for people who are underserved, vulnerable, or marginalized, and to increase access to the courts for all Oregonians. Its initiatives include reductions of fines and fees for people who are unable to pay them and using technology to provide expanded court access.

House Bill 4120 permits waivers or alternative payment conditions of fines for violations, provides incarcerated persons with lower cost alternatives to show inability to pay court filing fees, limits additional filing fees for requesting multiple fiduciaries or protective orders, limits additional fees for amending small estate affidavit, and allows courts to continue using remote proceedings after statewide emergency ends.