

# D R A F T

## SUMMARY

Digest: The Act makes some new rules for remote location testimony. (Flesch Readability Score: 61.3).

Changes notice requirements and requirements related to facilities and technology for motions to allow remote location testimony.

## A BILL FOR AN ACT

1  
2 Relating to remote location testimony; creating new provisions; and amend-  
3 ing ORS 45.400, 107.717 and 163.770.

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

5 **SECTION 1.** ORS 45.400 is amended to read:

6 45.400. (1) A party to any civil proceeding or any proceeding under ORS  
7 chapter 419B may move that the party or any witness for the moving party  
8 may give remote location testimony.

9 (2) A party filing a motion under this section must give written notice to  
10 all other parties to the proceeding [*at least 30 days before the trial or hearing*  
11 *at which the remote location testimony will be offered. The court may allow*  
12 *written notice less than 30 days before the trial or hearing for good cause*  
13 *shown*] **sufficiently in advance of the trial or hearing at which the re-**  
14 **mote location testimony will be offered to allow the nonmoving party**  
15 **to challenge the factors specified in subsection (3)(b) of this section**  
16 **and to establish the factors specified in subsection (3)(c) of this**  
17 **section.**

18 (3)(a) Except as provided under subsection (5) of this section, the court  
19 may allow remote location testimony under this section upon a showing of

1 good cause by the moving party, unless the court determines that the use  
2 of remote location testimony would result in prejudice to the nonmoving  
3 party and that prejudice outweighs the good cause for allowing the remote  
4 location testimony.

5 (b) Factors that a court may consider that would support a finding of  
6 good cause for the purpose of a motion under this subsection include:

7 (A) Whether the witness or party might be unavailable because of age,  
8 infirmity or mental or physical illness.

9 (B) Whether the party filing the motion seeks to take the remote location  
10 testimony of a witness whose attendance the party has been unable to secure  
11 by process or other reasonable means.

12 (C) Whether a personal appearance by the witness or party would be an  
13 undue hardship on the witness or party.

14 (D) Whether a perpetuation deposition under ORCP 39 I, or another al-  
15 ternative, provides a more practical means of presenting the testimony.

16 (E) Any other circumstances that constitute good cause.

17 (c) Factors that a court may consider that would support a finding of  
18 prejudice under this subsection include:

19 (A) Whether the ability to evaluate the credibility and demeanor of a  
20 witness or party in person is critical to the outcome of the proceeding.

21 (B) Whether the nonmoving party demonstrates that face-to-face cross-  
22 examination is necessary because the issue or issues the witness or party  
23 will testify about may be determinative of the outcome.

24 (C) Whether the exhibits or documents the witness or party will testify  
25 about are too voluminous to make remote location testimony practical.

26 (D) The nature of the proceeding, with due consideration for a person's  
27 liberty or parental interests.

28 *[(E) Whether facilities that would permit the taking of remote location tes-  
29 timony are readily available.]*

30 **(E) Whether reliable facilities and technology that would permit the  
31 taking of remote location testimony are readily available to the court,**

1 **counsel, parties and the witness.**

2 (F) Whether the nonmoving party demonstrates that other circumstances  
3 exist that require the personal appearance of a witness or party.

4 (4) In exercising its discretion to allow remote location testimony under  
5 this section, a court may authorize telephone or other nonvisual trans-  
6 mission only upon finding that video transmission is not readily available.

7 (5) The court may not allow use of remote location testimony in a jury  
8 trial unless good cause is shown and there is a compelling need for the use  
9 of remote location testimony.

10 (6) A party filing a motion for remote location testimony under this sec-  
11 tion must pay all costs of the remote location testimony, including the costs  
12 of alternative procedures or technologies used for the taking of remote lo-  
13 cation testimony. No part of those costs may be recovered by the party filing  
14 the motions as costs and disbursements in the proceeding.

15 (7) This section does not apply to a workers' compensation hearing or to  
16 any other administrative proceeding.

17 (8) As used in this section:

18 (a) "Remote location testimony" means live testimony given by a witness  
19 or party from a physical location outside of the courtroom of record via si-  
20 multaneous electronic transmission.

21 (b) "Simultaneous electronic transmission" means television, telephone or  
22 any other form of electronic communication transmission if the form of  
23 transmission allows:

24 (A) The court, the attorneys and the person testifying from a remote lo-  
25 cation to communicate with each other during the proceeding;

26 (B) A witness or party who is represented by counsel at the hearing to  
27 be able to consult privately with counsel during the proceeding; and

28 (C) The public to hear and, if the transmission includes a visual image,  
29 to see the witness or party if the public would otherwise have the right to  
30 hear and see the witness or party testifying in the courtroom of record.

31 **SECTION 2.** ORS 107.717 is amended to read:

1 107.717. (1) A party may file a motion under ORS 45.400 requesting that  
2 the court allow the appearance of the party or a witness by telephone or by  
3 other two-way electronic communication device in a proceeding under ORS  
4 107.700 to 107.735.

5 (2) In [*exercising its discretion to allow written notice less than 30 days*  
6 *before the proceeding as required*] **determining whether notice is given**  
7 **sufficiently in advance of the proceeding** under ORS 45.400 (2), the court  
8 shall consider the expedited nature of a proceeding under ORS 107.700 to  
9 107.735.

10 (3) In addition to the factors listed in ORS 45.400 (3)(b) that would sup-  
11 port a finding of good cause, the court shall consider whether the safety or  
12 welfare of the party or witness would be threatened if testimony were re-  
13 quired to be provided in person at a proceeding under ORS 107.700 to 107.735.

14 (4) A motion or good cause determination under this section or ORS  
15 45.400 is not required for ex parte hearings held by telephone under ORS  
16 107.718.

17 **SECTION 3.** ORS 163.770 is amended to read:

18 163.770. (1) A party may file a motion under ORS 45.400 requesting that  
19 the circuit court allow the appearance of the party or a witness by telephone  
20 or by other two-way electronic communication device in a proceeding under  
21 ORS 163.760 to 163.777.

22 (2) In determining whether [*to allow written notice less than 30 days before*  
23 *the proceeding*] **notice is given sufficiently in advance of the proceeding**  
24 under ORS 45.400 (2), the circuit court shall consider the expedited nature  
25 of a proceeding under ORS 163.760 to 163.777.

26 (3) In addition to the factors listed in ORS 45.400 (3)(b) that would sup-  
27 port a finding of good cause, the circuit court shall consider whether the  
28 safety or welfare of the party or witness would be threatened if testimony  
29 were required to be provided in person at a proceeding under ORS 163.760  
30 to 163.777.

31 (4) A motion or good cause determination is not required for ex parte

1 hearings held by telephone under ORS 163.765.

2 **SECTION 4. The amendments to ORS 45.400, 107.717 and 163.770 by**  
3 **sections 1 to 3 of this 2025 Act apply to motions filed under ORS 45.400**  
4 **on or after the effective date of this 2025 Act.**

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