



# APPEALS FROM JUSTICE AND MUNICIPAL COURTS

House Bill 2460A (LC 156)

Oregon Law Commission

Commissioners: Justice Rebecca Duncan and  
Christa Obold Eshleman

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## Introduction

In November 2018, the Oregon Law Commission considered a request from the Direct Criminal Appeals Work Group to approve a project to review and revise the procedural law governing appeals from justice and municipal courts.<sup>1</sup> The Commission adopted the proposal and appointed Commissioners Christa Obold Eshleman and Justice Rebecca Duncan as co-chairs.

As detailed below, the project began in March 2020, a work group was formed, and the work group developed language for a draft bill: Legislative Concept 156. The language was finalized in November 2024. The bill's primary goal is to reorganize, streamline, and clarify existing statutory provisions that govern appeals from justice and municipal courts. Consequently, most of the sections of the bill do not make substantive changes to the law. But, in reviewing the processes for appeals, the work group did identify a few substantive changes that it believed would improve the processes, and the bill includes those. All the sections of the bill are summarized in this report.

The Oregon Law Commission voted to accept Legislative Concept 156, House Bill 2460, and this report on December 5, 2025. The bill was filed at the request of the House Interim Committee on the Judiciary for the 2025 Legislative Session.

House Bill 2460, now HB 2460A, was amended by the -1 Amendment in the House Judiciary Committee on March 13, 2025. An explanation of the -1 Amendment can be found under "Amendment Notes." These are the only changes made to the bill and report since adoption by the Oregon Law Commission in December.

## Background and Proposal

In February 2015, the Appellate Commissioner for the Oregon Court of Appeals requested that the Oregon Law Commission sponsor a work group to review and revise the procedural law that governs direct appeals in criminal cases. The Direct Criminal Appeals work group met in 2016 and 2017 and produced Senate Bill 896 (2017) and its corresponding report (<https://olis.oregonlegislature.gov/liz/2017R1/Downloads/CommitteeMeetingDocument/132306>).

During its efforts, the Direct Criminal Appeals work group considered the appeals process for municipal and justice courts and, thereafter, to the Court of Appeals. Although the work group determined that the statutory scheme addressing those appeals was ripe for review, analysis, and reorganization, it ultimately decided that that project should be addressed separately. The work group recommended that the Oregon Law Commission undertake a new project to address the appeals process from municipal and justice courts:

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<sup>1</sup> Oregon Law Commission Direct Criminal Appeals Work Group, <https://law-olc.uoregon.edu/direct-criminal-appeals-work-group>, (last visited 11/6/2024).

*Historically, appeals from justice courts created by counties and municipal courts created by cities were taken to the circuit court in which the justice or municipal courts were located. In 1999, the Legislature enacted statutes authorizing any justice or municipal court to become a “court of record,” and, if a justice or municipal court chose to become a court of record, an appeal from such a court would be taken directly to the Court of Appeals. Oregon Laws 1999, ch 682, § 11, amending ORS 138.057.*

*When [the Direct Criminal Appeals] Work Group undertook to review those provisions, the work group discovered that the statutory framework governing appeals from justice and municipal courts were complex, perhaps bordering on labyrinthine.*

*That the statutes governing appeals from justice and municipal courts are so complex is particularly unfortunate because many, if not most, private parties appearing in such courts are not represented by counsel and are proceeding without the advice or assistance of attorneys. Apart from the amount of time and effort it likely would take to master appeals from justice and municipal courts, the membership of the Work Group did not include representatives of affected parties, such as judges of justice or municipal courts, city attorneys, county counsels, or attorneys who practice in those courts.*

*The Work Group determined that the scope of the problem of appeals from justice and municipal courts and the absence of participants by persons who would be most affected by changing the law respecting those courts required a separate Work Group devoted to that topic. Therefore, the Work Group recommends that the Commission consider forming a Work Group to review the statutory and case law relating to appeals from justice and municipal courts.<sup>2</sup>*

## Overview of Justice and Municipal Courts

Justice and municipal courts are distinct from the Oregon Judicial Department’s unified court system. Justice courts are established by the county in which they are located; municipal courts are established by the city in which they are located.<sup>3</sup> They handle county- and city-specific cases, as well as some state cases. Although justice and municipal court judges are not required to be attorneys, many are.

There are 142 justice and municipal courts in Oregon. Justice and municipal courts are located in population centers throughout a county to provide greater accessibility to Oregonians who do

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<sup>2</sup> [Report of the Direct Criminal Appeals Workgroup on SB 896 \(2017\).](#)

<sup>3</sup> Oregon Judicial Department, Other Courts, <https://www.courts.oregon.gov/courts/Pages/other-courts.aspx>, (last visited November 6, 2024).

not live near a county seat. Many cases in justice and municipal court involve self-represented litigants.<sup>4</sup> But, in cases that may result in a loss of liberty, a defendant is entitled to a public defender.

In this report, the term "local courts" is used to cover both justice and municipal courts.

## Justice Courts

There are 22 justice courts in Oregon.<sup>5</sup> Justice courts have jurisdiction within their county, concurrent with the circuit court, in cases involving violations and misdemeanors.<sup>6</sup> For example, justice courts have jurisdiction over traffic, boating, wildlife, violations of county codes and ordinances and other violations occurring in their county. Justice courts do not have jurisdiction over felonies.

In addition to violations and misdemeanors, justice courts have jurisdiction over certain civil actions where the money or damages claimed does not exceed \$10,000. (Justice courts do not have jurisdiction over civil actions involving title to real property, false imprisonment, libel, slander or malicious prosecution.) Justice courts also have jurisdiction in forcible entry and detainer (FED) cases, more commonly known as eviction cases. In addition, a Justice of the Peace judge may perform weddings.

A county may elect to make its justice court a court of record, if it is not within 50 miles of the court's circuit court.<sup>7</sup> There are not currently any justice courts of record.

Proceedings in justice courts are conducted in a manner similar to proceedings in circuit courts, except where otherwise specifically provided. Under the current statutory scheme, there are at least eight ORS chapters that contain provisions relating to proceedings in and appeals from justice courts.

ORS Chapters Addressing Justice Court Proceedings and Appeals	
ORS Chapter 19	Governs appeals in violation actions heard in justice courts of record
ORS Chapter 51	Justice courts generally
ORS Chapter 52	Civil actions (in justice courts)
ORS Chapter 53	Appeals in civil actions (in justice courts)
ORS Chapter 54	Juries (for justice court actions)

<sup>4</sup> Kidd, Justin, The Role of Justice Courts, Oregon State Bar Bulletin, June 2023, pages 34 and 35, [https://www.co.marion.or.us/JC/Documents/FromTheBench\\_Bulletin\\_June2023.pdf](https://www.co.marion.or.us/JC/Documents/FromTheBench_Bulletin_June2023.pdf) (last visited November 6, 2024). Presentation to a joint meeting of the Senate and House Interim Judiciary Committees, September 24, 2024 (<https://olis.oregonlegislature.gov/liz/202311/Committees/SJUD/2024-09-24-11-30/Agenda>).

<sup>5</sup> Oregon Blue Book, Justice Courts, <https://sos.oregon.gov/blue-book/Pages/state/judicial/justice-courts.aspx>, (last visited November 6, 2024).

<sup>6</sup> ORS 51.050 as amended by section 57, chapter 70, Oregon Laws 2024.

<sup>7</sup> ORS 51.025.

ORS Chapter 55	Small claims actions (in justice courts)
ORS Chapter 138	Governs appeals in criminal actions (some provisions apply, expressly or through cross-references, to justice court)
ORS Chapter 156	Criminal actions (in justice courts) <sup>8</sup>
ORS Chapter 157	Appeals in criminal actions (in justice courts)

## Municipal Courts

There are 119 municipal courts in Oregon.<sup>9</sup> Municipal courts have concurrent jurisdiction with circuit and justice courts over violations and misdemeanors committed or triable in the city in which the court is located.<sup>10</sup> They do not have jurisdiction over felonies. Municipal courts do not have jurisdiction over civil actions.

Municipal courts primarily hear cases involving parking and pedestrian violations, traffic violations and misdemeanors, vehicle impoundments and forfeitures, and violations of municipal codes and ordinances, including animal, high grass and trash nuisances. They also hear certain cases involving minor tobacco, liquor and drug violations. In addition, a municipal judge may perform weddings.

Many incorporated cities in Oregon have a municipal court as authorized by charter and state law. Although under the Oregon Constitution cities have home rule authority that allows them to shape their municipal courts, municipal court procedures are governed largely by state law. Under current law, except as otherwise provided in ORS chapter 221, appeals from municipal courts not of record to the circuit court are the same as appeals from justice courts not of record to the circuit court. ORS 221.359(1).

Municipal courts may elect to be a court of record, although few have.<sup>11</sup> Currently there are eight municipal courts of record.<sup>12</sup>

## "Courts of Record" and "Courts Not of Record"

The appeals process for a justice or municipal court (a "local court") depends on whether the local court is a court of record. Decisions from a local court of record are appealed directly to

<sup>8</sup> There is some ambiguity in Oregon law about what constitutes a "crime" or a "criminal" case, because one statute (ORS 161.515) defines a "crime" in effect as a felony or a misdemeanor, but another statute (ORS 131.005) defines "criminal action" to include felonies, misdemeanors, and violations. Because justice courts and municipal courts do not have jurisdiction of felony trials, most of the statutes referring to "criminal" cases in those courts are effectively referring to misdemeanor and violation cases.

<sup>9</sup> Oregon Blue Book, Municipal Courts, <https://sos.oregon.gov/blue-book/Pages/state/judicial/municipal-courts.aspx>, (last visited November 6, 2024).

<sup>10</sup> ORS 221.342.

<sup>11</sup> ORS 221.342.

<sup>12</sup> Oregon Justice/Municipal Court Registry, Oregon Judicial Department, <https://www.courts.oregon.gov/courts/pages/other-courts.aspx> (last accessed November 11, 2024).

the Oregon Court of Appeals, as if the case originated in a circuit court.<sup>13</sup> Such appeals are possible because there is a record of the local court's proceedings that the Court of Appeals can review for errors. A case is not litigated anew in the Court of Appeals. As a general rule, the Court of Appeals does not receive any new evidence; no witnesses are called; and no exhibits are submitted. The purpose of such an appeal is to allow a party to challenge rulings that the lower court made.

In the Court of Appeals, an appellant initiates an appeal by filing a "notice of appeal" that designates the parts of the lower court record that the Court of Appeals will need to consider. The appellant then files a written brief in which it identifies the lower court rulings that it believes are erroneous. The other party, known on appeal as the respondent, then files an answering brief. The parties may orally argue the case to the Court of Appeals. After briefing and oral argument (if any), the Court of Appeals will take the case under advisement and later issue a decision regarding the appellant's claims that the lower court erred.

When a local court is not a court of record, appeals are taken to the circuit court, which is a court of record.<sup>14</sup> That is because, if the local court is not a court of record, it is not possible for an appellate court to review what occurred in the local court. So, instead of reviewing the local court proceedings to determine if the local court made an erroneous ruling, it is necessary for the case (or at least the part of the case that the appellant is challenging) to be litigated anew in the circuit court.

If a case is appealed from a local court to a circuit court, the circuit court proceedings will be recorded. If a party wants to challenge a ruling of the circuit court, it can proceed to the Court of Appeals, as if the case had originated in the circuit court.<sup>15</sup>

Under current law, the type of local court (justice or municipal), the type of case (civil, violation, or misdemeanor), and whether or not the local court is a court of record all influence how a case is appealed.

To illustrate the current complicated statutory scheme, Jim Nass, former Oregon Judicial Department Appellate Commissioner and a member of the Direct Criminal Appeals work group, outlined some of the challenges in the current justice court appeals process in a memo submitted in 2016 to the Direct Criminal Appeals work group.

A justice court has jurisdiction of all "offenses" committed within the territorial jurisdiction of the justice court. "Offenses" includes misdemeanors and excludes

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<sup>13</sup> ORS 51.025(5) and ORS 221.342.

<sup>14</sup> ORS 51.050 and ORS 221.359.

<sup>15</sup> There is an exception to that general rule: if a small claims case originates in a circuit court, it cannot be appealed to the Court of Appeals. Correspondingly, if a small claims case originates in a justice court that is not a court of record and is appealed to a circuit court, it cannot be appealed from the circuit court to the Court of Appeals.

felonies.<sup>16</sup> Presumably “offenses” also excludes violations as defined by state law or county ordinance, at least for appeal purposes. A justice court also has jurisdiction of certain civil cases (recovery of damages up to \$10,000, recovery of personal property with a value of up to \$10,000, and recovery of any penalty or forfeiture provided by statute or contract not exceeding \$10,000).<sup>17</sup> To further complicate things, if a defendant is cited into a justice court for a misdemeanor, the defendant can remove the action to a circuit court.<sup>18</sup> Lastly, an appeal in either a civil, violation, or criminal case normally is taken to the circuit court in the county in which the justice court is located, but, if the justice court has become a court of record, the appeal is taken to the Court of Appeals.

Below are seven unique processes all stemming from a justice court and governed by statutes from different ORS chapters:<sup>19</sup>

- Transfer of a misdemeanor from a justice court to a circuit court (ORS 51.050);
- Appeal in a *civil action* from a justice court when the justice court *is not* a court of record (ORS 53.005-53.130);
- Appeal in a *civil action* when the justice court *is* a court of record (ORS 53.005 (providing that such appeals "shall be as provided in ORS Chapter 19 for appeals from judgments of circuit courts"));
- Appeal in a case involving a *misdemeanor* from a justice court that *is not* a court of record (ORS 157.005-157.081);
- Appeal in a case involving a *misdemeanor* from a justice court that *is* a court of record (ORS 157.005 (providing that such appeals "shall be as provided in ORS chapter 138 for appeals from judgments of circuit courts"));
- Appeal in a case involving a *violation* from a justice court that *is not* a court of record (ORS 138.057); and
- Appeal in a case involving a *violation* from a justice court that *is* a court of record (ORS 138.057(1)(a) (providing that the appeal "shall be as provided in ORS chapter 19, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony ")).<sup>20</sup>

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<sup>16</sup> ORS 51.050.

<sup>17</sup> ORS 51.080.

<sup>18</sup> ORS 51.050(2). Presumably, once removed to a circuit court, any appeal would be to the Oregon Court of Appeals and would be subject to ORS chapter 138, the same as any other misdemeanor originally charged in a circuit court.

<sup>19</sup> This list is provided as an example of justice courts processes. Processes for municipal courts can be just as complicated.

<sup>20</sup> This statute is particularly problematic, because it addresses *violations* and provides that appeals from justice courts of record are taken as provided in ORS chapter 19, but it is found in the chapter addressing appeals in criminal cases. And, unlike all other provisions relating to justice and municipal courts, which are addressed separately in their respective enabling statutes, the statute addresses appeals from both justice and municipal courts of record. Lastly, the Legislature adopted the statute as a freestanding statute and Legislative Counsel chose



To further complicate matters, some cases involve both misdemeanors and violations. In addition, some justice courts serve as municipal courts.<sup>21</sup>

Because the statutes governing appeals from local courts are codified in several different chapters of the ORS, and because the processes they establish vary, it can be difficult for parties and courts to determine the processes for appeals. Navigating the statutes can be time consuming and result in costs for those involved, including litigants, lawyers, nonprofit organizations, cities, counties, and courts. Moreover, because of the ambiguity regarding the appellate procedures, inconsistent practices have developed.

Although justice and municipal courts judges, staff, and practitioners prioritize access to justice—including the use of plain language, accessible courthouses, and customer service—the current statutes can create confusion, especially for litigants, most of whom are self-represented. For all these reasons, the statutes were ripe for review and revision.

## Justice and Municipal Court Appeals Project

The Justice and Municipal Court Appeals Project was approved by the Oregon Law Commission at the November 9, 2018, meeting held at Willamette University School of Law. Commissioners Christa Obold Eshleman and Justice Rebecca Duncan agreed to serve as cochairs.

Since the first meeting held on May 20, 2020, the project has gone through three iterations. The progress was initially slow due to the challenges of the COVID-19 pandemic. In addition, the work group did not have a draft bill to work from. Work group participant and former Appellate Commissioner Jim Nass took the lead in reviewing and summarizing existing statutes. He worked with the Office of Legislative Counsel to create a draft bill, so that the work group would have proposals to review.

In 2022, after legislative counsel completed the first working draft of a bill, meetings of a subgroup dedicated to the drafting process started, with discussion and review of the first draft through early March of 2023. The work group meetings went into hiatus during the 2023 legislative session while the working draft was updated.

The most recent iteration of the project began meeting in August of 2023 with expanded participation and has met 21 times through November 2024.

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to place it in ORS chapter 138 rather than ORS chapter 19, even though appeals in violation cases having nothing to do with ORS chapter 19.

<sup>21</sup> ORS 51.037 provides that a city may enter into an agreement with a court for the provision of judicial services under which a justice court "shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court."

**Participation:**

**Chairs**

- Justice Rebecca Duncan, Oregon Supreme Court (Commissioner)
- Christa Obold Eshleman, Youth, Rights & Justice (Commissioner)

**Participants**

- James Brewer, Oregon Public Defense Commission
- Hon. Karen Brisbin, Clackamas County Justice Court
- Hon. Juliet Britton, Presiding Judge, Beaverton Municipal Court and Oregon Judges Association
- Hon. Daniel A. Cross, Washington County Justice Court
- Lindsey Detweiler, Senior Assistant General Counsel, Oregon Judicial Department
- Amie Fender-Sosa, Legislative Policy and Research Office, Oregon State Legislature
- Melissa Franz, City of Eugene
- Sean Foster, Oregon Law Center
- Bill Golden, Clackamas County District Attorney's Office
- Hon. Greg Gill, Eugene Municipal Court
- Susan Grabe, Oregon State Bar
- John Henry Hingson, Attorney
- Jordon Huppert, Attorney
- Linda Hukari, Marion County Trial Court Administrator, Oregon Judicial Department
- Hon. Justin Kidd, Marion County Justice Court
- Kris Kolta, Legislative Policy and Research Office, Oregon State Legislature
- Charles Kovas, Attorney
- Heather Marek, Oregon Law Center
- Anna McCormack, Warren Allen, LLP
- Kimberly McCullough, Senior Counsel for Government Relations, Oregon Judicial Department and Oregon Department of Justice
- Jim Nass, Attorney, (*Retired*) Appellate Commissioner, Oregon Judicial Department
- Hon. Emily Oberdorfer, Tigard Municipal Court
- Hon. Cris Patnode, Gilliam County Justice Court
- John Powell, Klamath and Lake Counties Trial Court

## Oregon Law Commission

- Administrator, Oregon Judicial Department
- Tony Rosta, Oregon Criminal Defense Lawyers Association
  - Dominique Rossi, Oregon State Bar
  - Matt Shields, Oregon State Bar

## Appeals from Justice and Municipal Courts House Bill 2460A (LC 156)

- Patrick Sieng, Oregon Municipal Judges Association
- Paul Smith, Deputy Solicitor General, Oregon Department of Justice
- Scott Winkels, League of Oregon Cities
- Hon. Erin Zemper, Eugene Municipal Court

### Staff

- Jessica Minifie, Senior Deputy Legislative Counsel, Office of Legislative Counsel, Oregon State Legislature
- Victor Reuther, Deputy Legislative Counsel, Office of Legislative Counsel, Oregon State Legislature
- Sandy Weintraub, Director, Oregon Law Commission (2020 – 2024)
- Amy Zubko, Director, Oregon Law Commission (2024 – present)

The participants listed above provided valuable insights, subject matter expertise, and a nuanced understanding of the appeals process for municipal and justice courts. Without the participation of justices of the peace, municipal court judges, prosecutors, criminal defense practitioners, representatives from the Oregon Judicial Department (current and retired), the Oregon Department of Justice, cities, legal aid providers, and appellate and civil practitioners, as well as the support of the Legislative Policy and Research Office and the Office of Legislative Counsel, LC 156 would not have been completed. While each participant’s expertise informed the bill draft and report, LC 156 and the accompanying report are the product of the Oregon Law Commission. Participation should not be understood to be an endorsement of each policy change in the bill.

## Recommendation to continue to address additional issues

When this project began, the focus was generally on organizing of the statutes that bear on appeals from justice and municipal courts. Discussion and analysis then turned to the mechanics of appeals from justice and municipal courts, such as the content of notices of appeal, where notices of appeal should be filed, and service of the notices on the adverse parties. Over the course of the last year, issues such as appeals from default judgments, filing fees, the scope of review on appeal in the circuit court, the circuit court’s dispositional authority, and appeals from civil cases decided by justice courts were also addressed.

As discussions and drafting have wrapped up, the work group identified a number of issues that warrant additional analysis, including

- the limitations on appeals from municipal offense convictions;
- whether violations appealed from the local court to the circuit court and then to the Court of Appeals should proceed under ORS Chapter 19 or Chapter 138;
- Forcible Entry and Detainer (FED) undertakings for appeals to a circuit court;<sup>22</sup>
- Treatment of records of abolished local courts;
- efficiency in service requirements on district attorneys because they are not involved in all cases; and
- the options for local courts to become courts of record.

In addition, given the scope and complexity of LC 156, it is possible that issues will be identified during the implementation and application of the bill, and those issues may warrant additional legislation in the 2026 or 2027 legislative session. For these reasons, approval of additional work on municipal and justice court appeals, as well as the restrictions on becoming courts of record, is recommended.

## SECTION-BY-SECTION EXPLANATION

This part of the report summarizes Legislative Concept 156 (the bill), section by section. As mentioned, a primary goal of the project is to make the statutes that govern appeals from justice and municipal courts more accessible. One way the bill does this is by making the appeal process the same for different types of cases when possible. So, where an aspect of the process could be the same for appeals in civil actions as for appeals in cases involving violations or misdemeanors, the work group tried to make it the same and set it out in a single set of provisions. For example, for justice courts, the provisions relating to what a notice of appeal must contain and where it must be filed are similar for all three types of cases and are set out together.

The work group considered consolidating the provisions for justice courts with those for municipal courts but ultimately decided that it was better to keep the provisions for the two types of courts separate, in ORS Chapters 51-55 and 156-157, while statutes specific to municipal courts are in ORS Chapter 221.

The bill is divided into three parts: Justice Courts (Sections 1-35c); Municipal Courts (Sections 36-54); and General (Sections 55-56).

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<sup>22</sup> "Undertaking" is defined in Section 25(1)(a) of the bill as "a written promise signed by an appellant to take an action in connection with an appeal from the justice court to circuit court that is supported by a bond, one or more sureties or a deposit of money with the justice court."

Within the Justice Courts part, there are sections that concern justice courts generally (Sections 1 -15), others that apply to appeals in all types of justice court cases (civil, misdemeanor, and violation) (Sections 6b-15), and still others that apply only to appeals in some types of justice court cases, for example, violations and misdemeanors (Sections 16-23) and civil actions (Sections 24-30).

Although the justice court provisions are separate from the municipal court provisions, the work group made the provisions the same or similar when possible. Consequently, within the Municipal Courts part of the bill (Sections 36-54), many of the sections are identical to sections in the Justice Courts part of the bill on the same topic. Others are nearly identical, differing in that, for example, references to "justice court" have been changed to "municipal court" and references to civil actions have been deleted because municipal courts do not hear civil actions.

In this chapter, the sections of the bill are explained in the order they appear in the bill. For most sections, there is a summary and a description of how the section relates to current law. If a section in the Municipal Courts part of the bill is the same or substantively the same as a section in the Justice Courts part of the bill, that fact is noted and the content is not explained a second time.

In the explanations, many of the citations to current statutes are accompanied by margin notes that contain the text of the statutes for easy reference.

LC 156 is organized as follows:

**Justice Courts**

Section 1 through Section 6a	Justice Courts Generally
Section 6b through Section 15	Appeals from Justice Courts (Generally)
Section 16 through Section 23	Appeals from Justice Courts in Violation and Misdemeanor Cases
Section 24 through Section 30	Appeals from Justice Courts in Civil Actions
Section 30a through Section 30c	Appeals from Justice Courts in Small Claims
Section 30d through Section 34 Statutes	Amendments to Existing Justice Court
Section 35	Repeals
Section 35a through Section 35c	Conforming Amendments

**Municipal Courts**

Section 36 through Section 51	Appeals from Municipal Courts
Sections 52 through Section 52a	Amendments to Existing Statutes
Section 53	Repeals
Section 54	Conforming Amendments

**General**

Section 55 through Section 56	Captions and Operative Date
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## JUSTICE COURTS

### JUSTICE COURT JURISDICTION

#### SECTION 1 - JUSTICE COURT JURISDICTION OVER OFFENSES (VIOLATIONS AND MISDEMEANORS)

##### 1. SUMMARY

- a. Section 1 of the bill concerns justice court jurisdiction over offenses. As current law does, Section 1 specifies that justice courts have jurisdiction over "all offenses committed or triable in their respective counties" but not over "the trial of any felony or a designated drug-related misdemeanor as defined in ORS 423.478." Also, as current law does, Section 1 provides that justice courts do not have jurisdiction over municipal offenses (described as "offenses created by the charter or ordinance of any city"), except as provided in ORS 51.037 (which allows cities to enter into agreements with justice courts for the provision of judicial services).

##### 2. RELATIONSHIP TO CURRENT LAW

- a. Section 1(1) concerns the scope of justice courts' jurisdiction. It is the same as current law, specifically ORS 51.050(1). It is an affirmative statement about the scope of a justice court's jurisdiction over "offenses." It also provides that justice court's jurisdiction is concurrent with any jurisdiction that may be exercised by a circuit or municipal court.
- b. Section 1 deletes ORS 51.050(2), which concerns transfers of cases from justice to circuit courts. That deletion is necessary because the bill addresses transfers in another section: Section 5. The deletion is not intended to change current law. It simply separates the jurisdictional provisions from the transfer provisions because they concern different issues. The jurisdictional provisions govern the types of cases that a justice court can hear. The transfer provisions allow defendants to transfer justice court matters to circuit courts.
- c. Section 1(2) simply renumbers ORS 51.050(3) to ORS 51.050(2) because the bill moves current ORS 51.050(2), which concerns transfers. Section 1(2) is the same as current ORS 51.050(3), which specifies that justice courts do not have jurisdiction over felonies and "designated drug-related misdemeanors" as defined in ORS 423.478.

**SECTION 1a - JUSTICE COURT JURISDICTION OVER ANIMAL ABUSE OFFENSES****1. SUMMARY**

- a. Section 1a amends current law, specifically, ORS 156.705, which gives justice courts jurisdiction over certain animal abuse offenses. The purpose of the amendment is to clarify that justice courts do not have jurisdiction over felony animal abuse offenses.
- b. ORS 156.705 does not apply to municipal courts. But municipal courts have jurisdiction over "all violations committed or triable in the city where the court is located." ORS 221.339(1). In addition, subject to certain exceptions set out in ORS 221.339, municipal courts also have jurisdiction over "misdemeanors committed or triable in the city." ORS 221.339(2). They do not have jurisdiction over felonies or drug-related misdemeanors as defined by ORS 423.478. ORS 221.339(2). Thus, like justice courts, municipal courts have jurisdiction over animal abuse violations and misdemeanors, but their jurisdiction is subject to exceptions under ORS 221.339(4).

**2. RELATIONSHIP TO EXISTING LAW**

- a. ORS 156.705 currently provides, "Justices of the peace shall have concurrent jurisdiction over all offenses committed under ORS 167.315 to 167.333 and 167.340." Those statutes define animal abuse offenses. Most of those offenses are misdemeanors, but some can be elevated to be felonies if certain conditions are met, and at least two of them are felonies.
- b. The bill amends ORS 156.705 to provide that justice courts do not have jurisdiction over felony animal abuse crimes. The reason for the change is because justice courts do not have jurisdiction over felonies. As discussed in connection with Section 1, current law provides that "[a] justice court does not have jurisdiction over the trial of any felony." Section 1a does not alter justice courts' jurisdiction over animal abuse offenses that are violations or misdemeanors.



**SECTION 2 - JUSTICE COURT JURISDICTION OVER CIVIL ACTIONS****1. SUMMARY**

- a. Section 2 identifies the types of civil actions that a justice court can hear. It also provides that a justice court's civil jurisdiction conferred by this section is concurrent with any that may be exercised by a circuit court.

**2. RELATIONSHIP TO CURRENT LAW**

- a. Section 2(1) is an affirmative statement of the types of civil actions that justice courts can hear. It limits those actions to certain types of actions and, for some of those types, includes a \$10,000 limit.
  - i. Sections 2(1)(a)-(c) are the same as ORS 51.080(1)(a)-(c).
  - ii. Section 2(1)(d) is based on ORS 105.110, which provides that justice courts have jurisdiction over actions for "forcible entry or wrongful detainer," more commonly referred to as FED or eviction cases. Section 2 adds FED cases to the list that is currently in ORS 51.080(1), so that all types of civil actions that can be brought in a justice court are listed in one place.
  - iii. Section 2(1)(e) is the same as ORS 51.080(1)(d).
- b. Section 2(2) is the same as ORS 51.080(2), which specifies that the \$10,000 limits in Section 2(1) do not include costs, disbursements, or attorney fees.
- c. Section 2(3) identifies certain types of civil actions that justice courts do not have jurisdiction over (even if they would otherwise have jurisdiction over them under Section 2(1)). It is the same as ORS 51.090, except that it makes a minor change to modernize language in ORS 51.090(1).
- d. Section 2(4) is new. It states that a justice court's jurisdiction in civil cases is concurrent with any "that may be exercised by a circuit court." It is based on and intended to parallel ORS 51.050(1), which applies in cases involving violations or misdemeanors. It is intended to make explicit that a justice court's civil jurisdiction is concurrent with that of circuit courts, which is not disputed.

## JUSTICE COURT RECORDS

### SECTION 3 - JUSTICE COURT CASE RECORDS

#### 1. SUMMARY

- a. Section 3 defines terms relating to the records that a justice court must keep. The section is intended to modernize existing terminology and make the record-keeping provisions for justice courts parallel to those of municipal courts.
- b. Section 3(1) defines "case record" as including the "docket" and "case file" of a case.
- c. Section 3(2) defines the "docket" as a log of the events in a case, including, but not limited to the dates of filings and orders.
- d. Section 3(3) defines the "case file" as the documents filed with or by the justice court clerk, as well as any audio recording or stenographic or other reporting made pursuant to ORS 51.105, if all parties agree that the recording is the official record of the proceeding. ORS 51.105 allows parties to arrange for recording of justice court proceedings.
- e. Note that the fact that there is a recording or reporting does not alter the nature of the appeal from the justice court to the circuit court. Section 3(3) simply provides that the recording or reporting is part of the case file, which the justice court is required to transmit to the circuit court when a case is appealed.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 3(1) introduces a new term, "case record," to cover both the "docket" and the "case file," so that the term "case record" can be used to describe the materials that a justice court must maintain and, of particular relevance to the bill, what materials a justice court must send to a circuit court when an appeal is taken. Note that the terms currently used to refer to court materials are not consistent. For example, ORS 157.040 provides that, if a defendant is in custody at the time an appeal is allowed, the justice of the peace "shall make the proper transcript and deliver it to the clerk of the appellate court[.]" In that statute, "transcript" is not used in its most common sense, which is a written record of oral statements. Section 3(1) would eliminate the use of that potentially confusing term. ORS 157.040 and other statutes that currently govern case records are repealed by the bill.
- b. Section 3(2) is based on several statutes: ORS 51.120, which requires justice courts to maintain a "docket" and prescribes what it must contain; ORS 221.352, which does the same for municipal courts; and ORS 7.020, which requires courts of record to maintain a "register" and prescribes what it must contain.
  - i. Section 3(2) is similar to ORS 51.120(1)(a) and ORS 221.352(1)(a).
  - ii. Section 3(2)(a) is similar to ORS 51.120(1)(b) and ORS 221.352(1)(b).
  - iii. Section 3(2)(b) is taken from ORS 7.020(2), which defines the term "register" for courts of record and requires the entry of certain

information into the register. Specifically, Section 3(2)(b) is the same as ORS 7.020(2).

- iv. Section 3(2)(c) is similar to ORS 51.120(d) and ORS 221.352(d).
  - v. Section 3(2)(d) is similar to ORS 51.120(e) and ORS 221.352(d).
  - vi. Section 3(2)(e) is the same as ORS 51.120(f) and similar to ORS 221.352(f).
  - vii. Section 3(2)(f) is the same as ORS 51.120(g) and the same as ORS 221.352(h).
  - viii. Section 3(2)(g) is the same as ORS 51.120(h) and similar to ORS 221.352(i).
  - ix. Section 3(2)(h) is similar to ORS 51.120(k) and ORS 221.352(L).
  - x. Section 3(2)(i) is similar to ORS 51.120(n), similar to ORS 221.352(o), and the same as ORS 7.020(3).
- c. Section 3(3) defines "case file." It is based on ORS 51.110, which defines the "records and files of a justice court," and ORS 7.090, which defines "the files of the court," when the court is a court of record.
- d. Section 3(4) provides that a justice court may maintain its docket or case files electronic form. It is based on ORS. 51.120(2).

**SECTION 4 - CUSTODY OF JUSTICE COURT CASE RECORDS****1. SUMMARY**

- a. Section 4 concerns the custody of case records.
  - i. Section 4(1) provides that the justice of the peace shall keep the court's case records safe and secure. It also provides that the case records are public records.
  - ii. Section 4(2) provides that when any justice court is abolished, the justice of the peace shall turn over the records to the county's circuit court.

**2. RELATIONSHIP TO EXISTING LAW**

- a. The first sentence of Section 4(1) is substantively the same as the first sentence of ORS 51.130. The only change is to replace "the docket and files" with "the case record."
- b. The second sentence of Section 4(1) is similar to the last sentence of ORS 51.130. The language has been updated to replace "public writing" with "public records for the purposes of ORS 192.311 to 192.478." The update is not intended to be a substantive change; all existing limits on disclosure are intended to remain.
- c. Section 4(2) is the same as the second sentence in ORS 51.130.

## TRANSFER OF CASES FROM JUSTICE COURT TO CIRCUIT COURT

### SECTION 5 - TRANSFER OF CASES TO CIRCUIT COURT

#### 1. SUMMARY

- a. Section 5 concerns two points at which a case can be transferred from a justice court to a circuit court before completion in the justice court.
  - i. As under current law, Section 5(1) provides that, if a justice court is not a court of record, a defendant in a case involving a misdemeanor can transfer the case to a circuit court at the outset.
  - ii. Section 5(2)(a) creates a new provision, which allows a defendant to transfer a case involving a violation or misdemeanor to the circuit court after an adverse ruling on a pretrial motion, if the prosecutor and justice court consent. The reason for the addition is to eliminate the need for a full trial in the justice court, when -- if the case was tried -- the defendant might still appeal so that motion could be ruled on by a court of record. The purpose of Section 5(2) is similar to the purpose of conditional guilty pleas in circuit courts. Under Section 6(2) of the bill, conditional guilty pleas are not permitted in justice courts.
  - iii. Under Section 5(2)(b), if a case transferred under this subsection involves only a charge of a violation, the filing fee for an appeal applies because this transfer provision is meant to serve in the place of an appeal.
  - iv. Section 5(3) makes it clear that, if a case is transferred from a justice court to a circuit court, the parties have the same right to appeal the circuit court's orders and judgments as they would if the case originated in the circuit court. That is, they can appeal from the circuit court to the Court of Appeals.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 5(1) is the same as ORS 51.010(2), except that Section 5(1) uses the term "must" instead of "shall," and uses the term "circuit court" instead of "appropriate court."
- b. Section 5(2) is new and intended to avoid unnecessary justice court proceedings when a case is likely to go to the circuit court anyway.
- c. Section 5(3) is new. It is intended to make it clear that when a case is transferred from a justice court to the circuit court, the parties can appeal the circuit court's orders or judgments to the Court of Appeals just as they could if the case had originated in the circuit court. This right to appeal is implicit in current law, and Section 5(3) makes it explicit.

## PLEAS IN JUSTICE COURT CASES INVOLVING OFFENSES

### SECTION 6 - PLEAS

#### 1. SUMMARY

- a. Section 6 amends current law to address conditional guilty pleas, which are allowed in circuit court under **ORS** 135.335(3). Conditional guilty pleas exist so that, when a circuit court decides a pretrial motion adversely to a defendant, the defendant can enter a conditional guilty plea and appeal the judgment to the Court of Appeals. They are often used when a circuit court denies a motion to suppress evidence that would be sufficient to support a conviction and the defendant plans to appeal the denial of the motion.
- b. Section 6 clarifies that, in justice courts, a defendant cannot enter a conditional guilty plea. Instead, if a defendant wants to challenge an adverse pretrial ruling, the defendant can have the case transferred to the circuit court, as provided in Section 5(2), provided that the prosecutor and justice court agree. If they do not agree, the case will proceed to trial in the justice court, and the defendant can then appeal to the circuit court.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 6(1), which provides that a defendant "may plead the same pleas as upon an indictment," is the same as **ORS** 156.080.
- b. Section 6(2) is new, and it provides that conditional guilty pleas are not available in justice courts, but, as discussed above, transfers are.

## OBTAINING ADVERSE PARTY CONTACT INFORMATION

### SECTION 6a - ADVERSE PARTY CONTACT INFORMATION

#### 1. SUMMARY

- a. Section 6a is intended to make it easier for a party to determine who the adverse party is so that the party can serve the adverse party as required to initiate an appeal. Because there are multiple governmental entities that can initiate a prosecution in justice court, it may not always be clear to a defendant who the adverse party is.
- b. Sections 6a(1)(a) and (b) provide that, in a case involving a violation or misdemeanor, the justice court will notify a defendant that they may request the name and contact information of the government official or entity that should be served a copy of the notice of appeal. If that request is made, the justice court will provide the information it has on file.
- c. Sections 6a(2)(a) and (b) similarly provide that, in a civil action, a justice court will notify the parties that they may request the name and contact information for adverse parties and that, if requested, the justice court will provide the information it has on file.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 6a is new. It is intended to assist parties in locating the information they need to serve adverse parties because service is required in order to bring an appeal to the circuit court.

## APPEALS FROM JUSTICE COURTS (GENERALLY)

The next sections of the bill, Sections 6b-15, concern appeals from justice courts generally. They apply to all types of justice court cases: civil actions, cases involving misdemeanors, and cases involving violations. Sections 6b-15 concern matters including where an appeal is taken, what must be in a notice of appeal, who must be served with the notice of appeal, filing fees, when the appellate court obtains jurisdiction, the nature of appeals to circuit courts, the types of judgements a circuit court can render, and writs of review.

### SECTION 6b - DEFINITIONS

#### 1. SUMMARY

- a. Section 6b defines a new term, "matter," which is used to identify what is on appeal in a circuit court. If the appeal is from a judgment of conviction and sentence, then the entire case is on appeal. But if the appeal is from a pretrial order, post-trial order, or an amended or corrected judgment, then the appeal is narrower in scope. It includes "the order or judgment from which the appeal is taken and any issue, factual or legal, necessary to decide the appeal." The "any issue, factual or legal, necessary to decide the appeal" provision was added based on a recognition that, when the circuit court considers the order or judgment being appealed anew, factual or legal issues may arise that did not arise in the local court. It is intended to clarify that the circuit court has the authority to consider and decide any such issue as necessary to decide the appeal.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 6b is new. It is intended to clarify when an entire case is on appeal and when only parts of a case are on appeal.




**SECTION 7 - COURT TO WHICH APPEAL IS TAKEN**

## 1. SUMMARY

- a. Section 7 concerns where an appeal from a justice court is taken and what statutes govern the appeal. In short, when a justice court is a court of record, appeals from the justice court proceed in the same manner as appeals from a circuit court: they go straight to the Court of Appeals and are subject to the same statutes as appeals from a circuit court to the Court of Appeals. That is because, with a record, the case can be reviewed, in the ordinary sense, by the Court of Appeals to determine whether the lower court erred. When a justice court is not a court of record, there is no record for the Court of Appeals to review. Therefore, the case proceeds to the circuit court, where the matter is litigated anew and a record can be created. Then, if a further review is desired after the circuit court issues its order or judgment, the order or judgment can be appealed to the Court of Appeals, as if the case had originated in the circuit court.
- b. Section 7(1) governs appeals from justice courts that *are* courts of record.
  - i. Section 7(1)(a) provides that, in violation cases, appeals from justice courts that are courts of record shall be taken as provided in ORS 138.057. That statute provides, in part, that in a violation case, "[i]f a justice court or municipal court has become a court of record under ORS 51.025 or 221.342, an appeal from a judgment involving a violation shall be as provided in ORS chapter 19 for appeals from judgments entered by circuit courts, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony." Chapter 19 governs appeals in civil cases.
  - ii. Section 7(1)(b) provides that, in misdemeanor cases, appeals from justice courts that are courts of record, shall be taken to the Court of Appeals "as provided in ORS 138.010 to 138.310 for appeals from circuit court." The cited statutes govern appeals in criminal cases.
  - iii. Section 7(1)(c) provides that, in civil cases, appeals from justice courts that are courts of record, shall be taken to the Court of Appeals as provided in ORS Chapter 19 for appeals from circuit court.
- c. Section 7(2) governs appeals from justice courts that *are not* courts of record.
  - i. Section 7(2)(a) provides that such appeals shall be taken to the circuit court where the justice court is located as provided in Sections 8 to 30 and Section 30c of this 2025 Act.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 7(1)(a), relating to violations, tracks current law, specifically,  ORS 138.057(1)(a).

- b. Section 7(1)(b), relating to misdemeanors, tracks current law, specifically, ORS 157.005.
- c. Section 7(1)(c), relating to civil actions, tracks current law, specifically ORS 53.005.
- d. Section 7(2) relating to appeals of all case types provides that an appeal from a justice court that is not a court of record shall be taken to the circuit court where the justice court is located pursuant to the provisions of this bill. Currently, the statutes that govern appeals from justice courts that are not courts of record are spread across several ORS chapters: ORS chapter 53 (civil actions); ORS chapter 157 (misdemeanors); ORS 138.057 (violations).

**SECTION 8 - TIME WITHIN WHICH APPEAL MUST BE TAKEN**

## 1. SUMMARY

- a. Section 8 establishes the deadlines for filing notices of appeal. Section 8(1) provides that the deadline is 30 days from the date that the judgment or order is entered in the justice court docket. Section 8(2) establishes an exception to that deadline for violation and misdemeanor cases when a motion for new trial or motion in arrest of judgment is timely filed and served. If that occurs, the notice of appeal is due within 30 days of the date of entry of the order disposing of the motion or the date that the motion is deemed denied, whichever is earlier.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 8(1)'s 30-day deadline is consistent with current law, except that there is currently a 10-day limit for small claims appeals. See ORS 53.030 (civil cases); ORS 55.110 (small claims cases); ORS 157.030 (criminal cases); ORS 138.057(1)(b) (violations). The bill changes the deadline for small claims cases so that they have a 30-day deadline, like all other appeals from justice and municipal courts.
- b. Section 8(2) is new. It serves to make the deadlines for an appeal from a justice court the same as that from a circuit court when a motion for a new trial or a motion in arrest of judgment has been timely filed and served. When there is such a motion, it makes sense to allow a party to wait to file a notice of appeal until the justice court has ruled (or had an opportunity to rule) on the motion. Section 8(2) is based on ORS 138.071(1), which applies to appeals in criminal cases from circuit courts to the Court of Appeals.
- c. Note that the work group considered adding a provision for late notices of appeal, as there is for appeals from circuit court to the Court of Appeals, see ORS 138.071(5)(a), but decided against doing so.

**SECTION 9 - CONTENTS OF NOTICE OF APPEAL****1. SUMMARY**

- a. The purpose of Section 9(1) is to list, in one place, the required contents of a notice of appeal for an appeal from a justice court to a circuit court for all case types. Currently, the requirements are listed in different statutes, which cover different types of cases, and state the requirements differently.
- b. Although the list of the required contents is long, the contents are basic: case title, parties' names, a notice that an appeal is being taken, identification of the order or judgment being appealed, contact information for the parties and their attorneys, if any.
- c. Section 9(2) requires the State Court Administrator to create a model form notice of appeal.

**2. RELATIONSHIP TO EXISTING LAW**

- a. Current statutes relating to the contents of a notice of appeal are ORS 53.020 (relating to civil actions and mentioning the title of the case and the designation of parties); ORS 53.030 (relating to civil actions and mentioning notices of appeal, but not specifying contents); ORS 19.250 (relating to civil appeals from circuit courts to the Court of Appeals); ORS 55.120 (relating to small claims appeals from justice court to circuit courts and setting out a form); and ORS 138.015 (providing that ORS 19.250 applies to criminal appeals from circuit courts to the Court of Appeals).
- b. The intent behind Section 9(1) is to make the requirements for notices of appeal easier to locate (by putting them in one place so that litigants and courts do not have to follow cross-references across multiple ORS chapters), and (2) to make the requirements consistent across case types, when appropriate, to reduce confusion and increase ease of use.
- c. The requirements listed in Section 9(1) are drawn from current statutes, including ORS 19.250, the statute that governs appeals from circuit courts to the Court of Appeals.
  - i. Although Section 9(1) is based, in part, on ORS 19.250, it does not include all the provisions of that statute.
    1. ORS 19.250 states that an appellant must provide "either an electronic email address for the appellant or a statement that the appellant does not have an electronic mail address." But Section 9(1) does not include that requirement. That is because it was brought to the work group's attention that some persons may have email addresses but not be able to access their email frequently and, therefore, not want to receive communications about their appeals by email.

2. Because Section 9(1) applies only to justice courts that are not courts of record, it does not include the provisions of ORS 19.250 that relate to the designation of the record.
- d. Section 9(2) is new. It requires the State Court Administrator to create a model form for notices of appeals from justice courts to circuit courts. The purpose of the model form is to make it easier for parties to provide (and, therefore, for courts to receive) the information required to initiate an appeal.
    - i. The work group learned that several justice or municipal courts have developed their own forms. Having the State Court Administrator develop a model form will spare local courts that work, while increasing the uniformity of the notices of appeal that circuit courts receive from the various local courts.

**SECTION 10 - FILING AND SERVICE OF NOTICE OF APPEAL****1. SUMMARY**

- a. Section 10 governs where a notice of appeal must be filed and on whom it must be served.
  - i. Section 10(1)(a) requires appellants to file their notices of appeal in the justice court, and it requires that the notices be accompanied by either proof of service or an acknowledgement of service signed by the adverse party.
  - ii. Section 10(b) requires appellants to serve the adverse party, or if the adverse party is represented, the adverse party's attorney.
  - iii. Section 10(c) applies to cases involving violations or misdemeanors. It requires defendants to serve the notice on the county attorney, if the case has brought in the county's name, and the district attorney, if the case has been brought in the state's name.

**2. RELATIONSHIP TO EXISTING LAW**

- a. Currently, the filing and service of a notice of appeal is governed by different statutes, depending on the type of case. Some of those statutes cross-reference each other.
  - i. In civil cases, ORS 53.030 governs the filing and service of a notice of appeal in a civil case.
  - ii. In criminal cases, ORS 157.030 governs; it provides both that "the appeal is taken in the same manner" as in a civil case, except that the notice shall be served on the district attorney or private prosecutor.
  - iii. In violation cases, ORS 138.057(1)(b) and (c) govern the filing and service of notices of appeal.
- b. Section 10(1)(a) retains current law by requiring appellants to file their notices of appeal in justice courts.
  - i. The question of whether a notice of appeal should be filed in the justice court, as under current law, or in the circuit court, which would be consistent with the practice of filing notices of appeal in the court that will hear the appeal, was the subject of a significant amount of discussion. Questions about having the notice filed in the justice court included, but were not limited to, questions about (1) whether it was efficient to have the notice filed in the justice court only to have the justice court forward the notice of appeal to the circuit court, (2) whether the point at which jurisdiction changes from the justice court to the circuit court would be more clear if the notice of appeal was filed directly in the circuit court, (3) whether justice courts are open as often as circuit courts to receive notices, and (4) whether appellants will have confidence that the justice court will properly process the notice. Arguments in favor

of having notices filed in justice court included (1) retaining existing law, (2) the fact that the appellant is familiar with the location of the justice court, and (3) the possibility that the justice court will be easier for the appellant to access. In the end, the work group chose to retain current law.

- c. Section 10(1)(b) requires service on the adverse party or, if the adverse party is represented, the adverse party's attorney. It tracks ORS 50.030, which applies to civil cases.
- d. For violation and misdemeanor cases, Section 10(2) requires a defendant to serve the county attorney if the case was brought in the county's name and the district attorney if the case was brought in the state's name.
  - i. Section 10(2) is based on ORS 157.030(1), which applies to appeals in misdemeanor cases from justice courts to circuit courts, and ORS 138.057(1)(b), which applies to appeals in violation cases from justice courts to circuit courts.
    - 1. ORS 157.030(1) provides that, in appeals in misdemeanor cases from a justice court to a circuit court, the notice "shall be served upon the district attorney for the county, or the deputy of the district attorney, or upon the private prosecutor in the action."
    - 2. ORS 138.057(1)(c) provides, in an appeal in a violation case from a justice court to a circuit court, "the copy of the notice of appeal must be served on the district attorney for the county."
  - ii. Note that the work group discussed requiring serving a copy of the notice of appeal on the circuit court, so that the circuit court would be aware of the notice of appeal because the circuit court acquires jurisdiction over some aspects of the case once a notice of appeal is filed. The work group opted not to do that because it would impose an additional burden on the appellant, which would be contrary to the reason that the group chose to continue to require that the notice be filed in the justice court. If an appellant needs to file a motion, such as a motion to stay, with the circuit court close in time to when the notice of appeal is filed in the justice court, the motion itself will alert the circuit court to the fact that the appeal has been initiated.

**SECTION 10a - FILING FEE**

## 1. SUMMARY

- a. Section 10a concerns filings fees for appeals in civil actions and in cases charging only a violation. If a violation case is transferred to the circuit court after a pretrial ruling, under Section 5(2), the transfer is like an appeal, and a filing fee is required.
- b. There are no filing fees for cases charging a misdemeanor. If a case involves both a violation and a misdemeanor, there is no filing fee.
- c. Section 10a requires an appellant to submit a filing fee (or an application for a waiver or deferral of the fee) to the justice court, which is the same court where the appellant will file the notice of appeal. The justice court will accept the fee (or application for a waiver or deferral) and transmit it to the circuit court. The justice court will not rule on the application for the waiver or deferral. The circuit court will do that, and it will do so in the manner provided in ORS 21.680 to 21.698.
- d. The filing fee amount is governed by ORS 21.135(1), (2)(b) (violation appeals from local courts) or 21.160 (tort or contract actions).
- e. Section 10a(2) concerns when the state or a political subdivision of the state must pay a fee and provides that payment is subject to ORS 20.140, which states that such entities are not required to pay fees in advance.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Currently, ORS 21.135 requires a \$281 filing fee in a civil proceeding, including "[a]ppeals from a conviction of a violation in justice or municipal courts as provided in ORS 21.285."
  - i. In turn, ORS 21.285 provides that filing and trial fees are due "[i]n an appeal to a circuit court from a justice court or municipal court actions for commission of a state violation or an action for violation of a city charged or ordinance, but not in an action for commission of a state crime." Thus, ORS 21.285 requires filing and trial fees in violation cases but not in misdemeanor cases.
- b. ORS 21.160 requires filing fees in tort and contract cases that begin at \$170, if the amount claimed is \$10,000 or less, and increase as the amount claims increases. ORS 21.160(4) provides that "[a] court shall collect the filing fees provided by this section when an appeal from a justice court is filed under [ORS 53.005](#) to [53.125](#) or a case is transferred from a justice court under [ORS 52.320](#)." (The ORS chapter 53 statutes cited are the statutes that govern civil appeals from justice courts.)
- c. ORS 21.225 requires trial fees in civil actions. ORS 21.285 requires trial fees in violation appeals from local courts.



- d. The work group learned that the current practices, regarding the collection of fees, vary. Section 10a is intended to clarify what cases require fees, how the fees are to be collected, and what the fees are. The work group discussed eliminating both fees, but ultimately chose to retain the filing fee and eliminate the trial fee. There was disagreement among work group participants about whether to also repeal filing fees for violations, or whether to impose a substantially lesser fee, and further discussion on that issue is among the recommendations of this report.
- e. Section 10a makes it clear that, "[o]n appeal from a justice court to the circuit court in a civil action, or in an action for the commission of a violation, the parties are subject to the circuit court filing fees described in ORS 21.135 [violations] or 21.160 [tort and contract claims]."
- f. If the circuit court denies the application for a fee waiver or deferral, the appellant will be expected to pay the filing fee or the circuit court will reject the case record and refuse the appeal in accordance with ORS 21.100. This is in alignment with *Otnes v PCC Structural*, 367 Or 787, 484 P3d 1049 (2021), which stands for the proposition that, when a court rejects a filing for failure timely to pay a required filing fee, the party has a reasonable opportunity to cure the deficiency by paying the filing fee, and if the party does so, the filing of the document relates back to the date the document originally was submitted to the court clerk for filing.

**SECTION 11 - CIRCUIT COURT'S APPELLATE JURISDICTION****1. SUMMARY**

- a. Section 11 concerns when a circuit court can take certain actions in an appeal from a justice court.
- b. Section 11(1) provides that a circuit court has "jurisdiction to exercise judicial authority in the matter upon the filing of the notice of appeal." The purpose of this subsection is to make it clear that a circuit court can take certain actions, such as ruling on motions to waive a filing fee or motions for stays, even before an appeal is "perfected."
- c. Section 11(2) provides that neither a justice court nor a circuit court can waive or extend the deadline for filing or serving the notice of appeal, subject to exceptions in Section 11(4).
- d. Section 11(3) provides that an appeal is perfected "upon the timely filing of the notice of appeal, service on the adverse party and transfer of the case record" from the justice court to the circuit court.
- e. Section 11(4)(a) provides that, if an appellant mistakenly files the original notice of appeal in the circuit court, the error is not a jurisdictional defect, so long as the appellant timely served a copy of the notice on the justice court.
- f. Section 11(4)(b) provides that timely service on an adverse party is not jurisdictional if the appellant relied on the contact information provided by the justice court pursuant to Section 6a of this bill, and that the circuit court may extend the time for proper service.
- g. Section 11(4)(c) provides that, in a violation or misdemeanor case, timely service on the county attorney or district attorney is not jurisdictional and the time for service may be extended by the circuit court.

**2. RELATIONSHIP TO EXISTING LAW**

- a. Currently, the last sentence of ORS 53.030 provides that "[w]hen the notice of appeal has been served and filed, the appellate court shall have jurisdiction of the cause." Similarly, ORS 157.030, which applies to appeals in criminal cases, provides, in part, that "[w]hen the notice of appeal has been filed with the court from which the appeal is being taken, the appellate court shall have jurisdiction of the cause."
- b. Section 11(1) makes explicit what is implicit in current law: that the circuit court has authority to act in a case once the notice of appeal is filed; that is, it can take administrative actions, rule on motions, etc. But the circuit court does not have authority to reach the merits of the case until the appeal is perfected, which occurs upon timely filing and service of the notice of appeal and receipt of the local court case record.
- c. Section 11(2) is based on ORS 53.090, which applies in a civil appeal from a justice court to a circuit court and allows for extension of time for submission of

the justice court materials. It differs from ORS 53.090 in that it does not require that an order extending the deadline be made within the time for submission.

- d. Section 11(3) is based on ORS 53.090, which applies in a civil appeal from a justice court to a circuit court, and ORS 157.060, which applies in misdemeanor appeals. ORS 53.090 provides, in part, "[u]pon the filing of the transcript with the clerk of the appellate court, the appeal is perfected." ORS 157.060 provides, "[f]rom the filing of the transcript with the clerk of the appellate court the appeal is perfected and the action is deemed pending therein for trial upon the issue tried the justice court."
- e. Section 11(4)(a) is new. It serves to ensure that, if an appellant actually delivers a notice of appeal to the justice court, the notice can be deemed filed, even if it is a copy rather than an original because the original was mistakenly filed in the circuit court.
- f. Section 11(4)(b) is new. It relates to Section 6a, which is also new and provides that a justice court must notify parties that they can ask the court for contact information for adverse parties and that, if parties do, the court must provide it.
- g. Section 11(4)(c) provides that a failure to serve the county attorney or district attorney is not jurisdictional. It is based on ORS 157.030, which applies to appeals from justice courts to circuit courts in misdemeanor cases, and ORS 138.057, which applies to appeals from circuit courts to the Court of Appeals in violation cases. ORS 157.030 provides, in part, "Failure to serve a notice of appeal on the appropriate attorney shall not preclude jurisdiction in the appellate court[.]" ORS 138.057(2)(b) provides that, "Notwithstanding ORS 19.270, timely service on the city attorney or district attorney under the provisions of this subsection is not jurisdictional and the Court of Appeals may extend the time for that service."

**SECTION 12 - SUBMISSION OF THE RECORD**

## 1. SUMMARY

- a. Section 12 concerns when a justice court must submit a case record to the circuit court for an appeal. It requires a justice court to submit a case record to the circuit court no later than 30 days after the filing of the notice of appeal, or, in a misdemeanor case, no later than 10 days after the filing of the notice of appeal if the defendant is in custody. But Section 12 allows the circuit court to extend the time for submission. It also allows justice and circuit courts to agree to electronic submission of case records.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 12 is based on ORS 53.090 (civil actions); ORS 157.030 and ORS 157.040 (misdemeanor cases); and ORS 138.057(1)(e) (violation cases). It is not identical to those provisions. It clarifies that it is the justice court's obligation to submit the case record to the circuit court and that the submission should be made no later than 30 days after the filing of the notice of appeal, except when a defendant is in custody, in which case it should be no later than 10 days after the filing of the notice.
- b. The 30-day limit is the same as under current law for civil cases under ORS 53.090. The 30-day limit appears to apply in non-custody misdemeanor cases by way of ORS 157.030 (providing that an appeal is taken in the "same manner \* \* \* as in the case of an appeal from a judgment in a civil action"). There does not appear to be a specific limit for violation cases; ORS 138.057(1)(e) provides that, "upon filing of the notice of appeal, the justice court or municipal court shall forward all files relating to the case to the circuit court to which the appeal is taken."
- c. The 10-day limit for in-custody defendants is the same as under ORS 157.040.

**SECTION 13 - PROCEEDINGS IN THE CIRCUIT COURT AND STANDARD OF REVIEW GENERALLY**

## 1. SUMMARY

- a. Section 13(1) provides that the circuit court may dismiss an appeal that is not properly taken or perfected, but not on the ground that the justice court failed to submit the case record as required.
- b. Section 13(2) describes how an appeal from a justice court that is not a court of record proceeds. Although the circuit court proceeding is an "appeal," it differs from other appeals because there is no record for the circuit court to review. Thus, rather than reviewing the justice court's order or judgment for error, the circuit court shall "hear and decide the matter anew[.]"
- c. Section 13(3) allows for amendments of pleadings.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 13(1) is based on ORS 53.110. It is consistent with current law in that it provides for dismissal of appeals that are not properly taken or perfected. It adds a provision that makes it clear that a court cannot dismiss based on a justice court's failure to submit the case record to the circuit court.
- b. Section 13(2) is based on ORS 53.090 and is substantively the same as that statute, which, in pertinent part, provides, "[t]henceforth the action shall be deemed pending and for trial therein as if originally commenced in such court, and the court shall have jurisdiction of the cause and shall proceed to hear, determine and try it anew, disregarding any irregularity or imperfection in matters of form which may have occurred in the proceedings in the justice court."
- c. Section 13(3) allows for amendments of pleadings and is based on ORS 53.100 and ORS 157.060. It is substantively the same as those provisions.

**SECTION 14 - RENDERING JUDGMENT; REMAND; NOTICE TO JUSTICE COURT****1. SUMMARY**

- a. Section 14(1) requires a circuit court to enter a judgment resolving an appeal.
- b. Section 14(2) describes what actions a circuit may take after resolving the matter on appeal.
- c. Section 14(2) and Section 14(3) concern the types of judgments that a circuit court can enter.
  - i. Section 14(2)(a) applies if, on appeal, the circuit court determines that any of the terms of the justice court judgment should be reversed or modified. If the circuit court has made such a determination, then the circuit court "shall render a judgment as if the case had been originally commenced in the circuit court." Such a judgment is to be enforced "as a judgment of the circuit court."
  - ii. Section 14(2)(b) applies if, on appeal, the circuit court determines that none of the terms of the judgment should be reversed or modified. It provides that the circuit court "shall render a judgment affirming the decision and remanding the case to the justice court for enforcement of the judgment." This provision was created with the idea that, if the circuit court affirms and remands, then the justice court can enforce its judgment.
  - iii. Notwithstanding Section 14(1) and (2), a circuit court can affirm a justice court order or judgment and enter its own order or judgment, which it can enforce. Section 14(3) provides that, "in its discretion and for good cause, the circuit court may render such judgment or order as may be proper, including rendering a judgment containing all necessary terms to be enforced as a judgment of the circuit court, and may remand the case to the justice court for further proceedings in accordance with the decision of the circuit court."
- d. Section 14(4) requires the circuit court to notify the justice court of the result of the appeal to the circuit court. Section 14(4)(a) requires the circuit court to notify the justice court within 40 days after the date of entry of the circuit court's judgment, if that judgment has not been appealed to the Court of Appeals. If the judgment has been appealed to the Court of Appeals, then the circuit court must notify the justice court of the Court of Appeals' decision within 10 days after the circuit court receives the Court of Appeals' appellate judgment.

**2. RELATIONSHIP TO CURRENT LAW**

- a. Section 14(2)(a) is similar to current statutes for both civil and criminal appeals, **ORS** 53.125 (civil) and **ORS** 157.065 (misdemeanor and violation).

- b. Section 14(2)(b) is new. It was added to enable justice courts to enforce their own judgments if an appeal to the circuit court did not result in any change to that judgment.
- c. Section 14(3) is consistent with current law which allows a circuit court to enter an appellate judgment or order as may be proper.
- d. In *State v. Lyman*, 30 Or App 955, 569 P2d 39 (1977), an appeal from a justice court to the circuit court, the Court of Appeals held: “The circuit court in reviewing de novo does not affirm, reverse, or modify the judgment of the lower court but issues a new judgment in all respects.” The court did not address ORS 157.065, which provides, in part: “the appellate court may give such other judgment or order as may be proper, and direct that the cause be remitted to the court below for further proceedings in accordance with the decision of the appellate court.” *Accord*, ORS 53.125 (as to civil cases). Subsection (1) of Section 14, along with section 19(1), in effect, codify the Court of Appeals’ statement in *Lyman* that, on de novo review of a judgment of conviction and sentence of a misdemeanor, the circuit court must enter a new judgment. However, subsection (3), in effect, carries forward the part of ORS 157.065 that permits a circuit court in other circumstances to enter a judgment modifying or reversing a part of the local court’s decision and remanding, with or without instructions.

## **SECTION 15 - AVAILABILITY OF WRIT OF REVIEW**

### **1. SUMMARY**

- a. Section 15 maintains current law, which provides that the right to bring an appeal to a circuit court does not prevent a party from seeking a writ of review in the circuit court pursuant to ORS 34.010 to 34.100.

### **2. RELATIONSHIP TO EXISTING LAW**

- a. Section 15 does not change current law. It is based on ORS 53.130 (civil cases) and ORS 157.070 (criminal cases).



## VIOLATIONS AND MISDEMEANOR CASES

The sections in the previous part of the bill (Sections 6b -15) establish procedures that apply to appeals from justice courts to circuit courts in all types of cases (civil, misdemeanor, and violation). The sections in this part of the bill (Section 16 - 23) establish additional procedures that apply only to misdemeanor and violation cases.

### SECTION 16 - APPEAL AND CROSS-APPEAL BY THE DEFENDANT

#### 1. SUMMARY

- a. Section 16(1) identifies the types of orders and judgments that a defendant can appeal.
- b. Section 16(2) provides that, in a proceeding involving a violation, a defendant may appeal an order denying a motion for relief from default under ORS 153.105. It applies only to violations because default judgments are not allowed in misdemeanor cases. If a defendant fails to appear in a misdemeanor case, a warrant can be issued for the defendant's arrest.
- c. Section 16(3) specifies when a defendant can cross-appeal. A cross-appeal may be taken when the adverse party has taken an appeal. So, for a defendant to take a cross-appeal, the prosecutor would need to have taken an appeal. Appeals by prosecutors are addressed in Section 17. Appeals by prosecutors are uncommon; generally, they occur when a prosecutor wants to appeal a pretrial ruling or a sentencing issue. Section 16 does not require a defendant to take a cross-appeal. A defendant's decision not to take a cross-appeal does not preclude the defendant from appealing a matter from the justice court.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Currently, ORS 157.020 governs who may appeal from a justice court to a circuit court in a misdemeanor action. It does not specify the types of orders or judgments that may be appealed. ORS 157.020(1) provides, "[e]xcept as provided in subsection (2) of this section, an appeal may be taken only by the defendant and whether or not the judgment is that the defendant pay a fine or be imprisoned." (Subsection (2) concerns appeals by the plaintiff (the prosecutor)).
- b. Section 16(1) specifies the types of orders and judgments that a defendant may appeal. It is based on ORS 138.035, which identifies the types of orders and judgments that a defendant may appeal from a circuit court (or a local court of record) to the Court of Appeals.
- c. Section 16(2) provides that a defendant may appeal an order denying a motion for relief from default.
  - i. The work group (and a subgroup) spent a significant amount of time discussing appeals from justice courts to circuit courts in violation cases where a defendant failed to appear and the justice court entered a

default judgment. The primary issue discussed was the circuit court's standard of review. At least one work group participant preferred an "abuse of discretion" standard of review based on the assumption that the justice court considered the same evidence for relief from default as the circuit court. The work group ultimately decided to apply the same procedure that applies to all other appeals from justice courts: a record is created in the circuit court and the circuit court decides the matter before it "anew" based on that record.

- d. Section 16(3) provides that a defendant may (but is not required to) file a cross-appeal when the prosecutor files an appeal. Section 16(3) is based on ORS 138.035, which applies to appeals from circuit courts to the Court of Appeals. ORS 138.035(5) provides, "A defendant may cross-appeal when the state appeals pursuant to ORS 138.045(1)(d)."

**SECTION 17 - APPEAL BY THE STATE OR COUNTY**

## 1. SUMMARY

- a. Section 17 concerns appeals from justice courts to circuit courts by the prosecutor in cases involving violations or misdemeanors.

## 2. RELATIONSHIP TO EXISTING LAW

- a. ORS 157.020(2) lists the types of judgments that a prosecutor in a misdemeanor case in a justice court may appeal to a circuit court.
- b. ORS 138.045 identifies the types of orders and judgments that the state can appeal from the circuit court to the Court of Appeals.
- c. The idea behind Section 17 is that the types of orders that a prosecutor can appeal from a justice court that is not a court of record should be the same as those that the state can appeal from a justice court that is a court of record or from the circuit court.
- d. Section 17(1) is intended to combine the lists of the orders and judgments that a prosecutor can appeal that are currently in ORS 157.020(2) and ORS 138.045.
  - i. Section 17(1)(a) refers to "[a]n order made prior to trial dismissing or setting aside one or more counts in the accusatory instrument." This type of order is not currently mentioned in ORS 157.020(2), but it is in ORS 138.045(1).
  - ii. Section 17(1)(b) refers to "[a]n order allowing a demurrer." It is taken verbatim from ORS 138.045(2).
  - iii. Section 17(1)(c) refers to "[a]n order made prior to trial suppressing evidence." It is similar to ORS 157.020(2)(c) and the same as ORS 138.0045(1)(d).
  - iv. Section 17(1)(d) refers to "[a]n order made prior to trial for the return or restoration of evidence." It is similar to ORS 157.020(2)(d) and ORS 138.045(1)(e).
  - v. Section 17(1)(e) is the same as ORS 157.020(2)(b) and ORS 138.045(1)(c).
  - vi. Section 17(1)(f) is the same as ORS 138.045(1)(i). There is no equivalent provision in ORS 157.020.
  - vii. Section 17(1)(g) is the same as ORS 138.045(1)(j). There is no equivalent provision in ORS 157.020.
- e. Section 17(2) is new. It concerns default judgments, which can be entered in violation cases. It provides that the prosecutor can appeal a justice court's grant of a motion for relief from a default judgment. Note that the scope of review in such an appeal is discussed in Section 18b(5).
- f. Section 17(3) is similar to current law. Section 17(3) provides that the state or county may not appeal the dismissal of a violation by reason of a police officer's failure to appear at the trial of the matter if the police officer was timely provided with notice of the trial date. Section 17(3) is based on ORS 138.057(3),

which provides, "[i]n any case in which only violations are charged, the state may not appeal from an order dismissing the case that is entered by reason of a police officer's failure to appear at the trial of the matter." Section 17(3) changes existing law, so that the limitation on the state or county's ability to appeal will apply only if the police officer received notice of the trial date.

**SECTION 18 - PROCEEDINGS IN THE CIRCUIT COURT IN GENERAL IN CASES CHARGING OFFENSES**

## 1. SUMMARY

- a. Section 18 concerns the proceedings for appeals in the circuit court. As discussed, an appeal from a justice court that is not a court of record is not the same as an appeal from a justice court that is a court of record. If a justice court is a court of record, then the appellate court can review the record to determine if the justice court erred. Consequently, such appeals can be brought directly to the Court of Appeals. But, if a justice court is not a court of record, then there is no record for the appellate court to review to determine if the justice court erred, and, therefore, the appeal is more akin to a new proceeding.
- b. Section 18(1) concerns how circuit courts should proceed, in general, when handling appeals involving violations or misdemeanors.
- c. Section 18(2) governs a circuit court's sentencing options when a defendant appeals a case involving a violation or misdemeanor from a justice court to a circuit court. The idea underlying Section 18(2) is that the circuit court's sentencing authority is the same as that of the court that the appeal is taken from.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 18(1) is based on ORS 221.390(1), which governs the appeals from municipal courts to circuit courts. Section 18(1) closely tracks ORS 221.390(1) but is not identical to it. ORS 221.390(1) refers to "an attorney provided by the city with the municipal court from which the appeal is taken." Because Section 18(1) applies to justice courts, it refers to "an attorney provided by the county or other political subdivision of the state that enacted the ordinance or adopted the provision of a charter the defendant was convicted of violating."
- b. Section 18(2) is based on ORS 221.390(2), which governs appeals from municipal courts to circuit courts.

**SECTION 18a - SCOPE OF REVIEW IN GENERAL OF ORDER OR JUDGMENT OTHER THAN  
JUDGMENT OF CONVICTION AND SENTENCE****1. SUMMARY**

- a. Section 18a concerns the scope of review when a party appeals an order or judgment other than a judgment of conviction and sentence. Section 18, just discussed, applies when a violation or misdemeanor case has been litigated to completion in the justice court (whether through a plea or trial) and the defendant is appealing the judgment of conviction and sentence. Section 18a applies to other appeals, for example, appeals of pretrial rulings or post-trial orders. Section 18a provides that the circuit court "may review only the order or judgment from which the appeal is taken and any issue necessary to decide the appeal but may receive and consider evidence as necessary to decide the matter anew."
- b. The purpose of Section 18a is to make it clear that, even though an appeal to a circuit court is like a new proceeding, it does not always involve a new trial in the circuit court.

**2. RELATIONSHIP TO EXISTING LAW**

- a. Section 18a is new. It makes explicit what is believed to be implicit in current law.

**SECTION 18b - SCOPE OF REVIEW IN SPECIFIC CASES****1. SUMMARY**

- a. Section 18a establishes the scope of a circuit court's review in certain types of cases.
- b. Section 18b(1) concerns appeals in cases where a defendant pleaded guilty or no contest in the justice court. In those appeals, the circuit court treats the plea as if it was entered in the circuit court. Only the defendant's sentence is at issue, and the circuit court sentences the defendant anew.
- c. Section 18b(2) provides that the parties are bound by any sentencing agreement they reached in the justice court.
- d. Section 18b(3) concerns appeals of restitution orders or judgments and provides that the circuit court shall sentence the defendant anew. The circuit court does not address only the restitution issue. Because the imposition of restitution could have affected other parts of the defendant's sentence, the circuit court sentences the defendant anew.
- e. Section 18b(4) concerns appeals of amended or corrected judgments. It provides that such appeals shall proceed in the same manner as an appeal from the original judgment, unless the time for filing a notice of appeal from the original judgment has passed, in which case the circuit court may review only the corrected or amended part of the judgment or any part of the judgment affected by the correction or amendment."
- f. Section 18b(5) concerns appeals from justice court rulings on motions for relief from default. (Under Section 16(2), a defendant can appeal a ruling denying such a motion, and under 17(2), the prosecution can appeal a ruling granting such a motion.) The circuit court shall determine whether to grant the relief in accordance with **ORS** 153.105, which establishes the standard applied in criminal cases that originate in circuit court.

**2. RELATIONSHIP TO EXISTING LAW**

- a. Section 18b is new.
- b. The provisions in sections 18b(1), (2), and (3) clarify existing practice and establish consistent limitations on the scope of circuit court review in some types of cases.
- c. The language of Section 18b(4) derives from ORS 138.105(10)(b).
- d. Section 18b(5) is intended to be modeled on the process that would occur in a case originating in circuit court.

**SECTION 19 - CIRCUIT COURT PROCEEDINGS ON APPEAL IN VIOLATION AND MISDEMEANOR CASES**

## 1. SUMMARY

- a. Section 19 relates to the actions that a circuit court may take after resolving the merits of an appeal in a misdemeanor or violation case.
- b. Section 19(1) provides that, in a misdemeanor case, on appeal by the defendant of a judgment of conviction or sentence or of an amended or corrected judgment, the circuit court must enter a judgment as provided in Section 14(2)(a), that is, a judgment "as if the case had been originally commenced in the circuit court \* \* \* and to be enforced as a judgment of the circuit court."
- c. Section 19(2) provides that, in a violation case, on appeal by the defendant of a judgment of conviction or sentence or of an amended or corrected judgment, if the circuit court determines that no term of the justice court should be reversed or modified, the circuit court can either issue a judgment affirming the judgment of the justice court and remanding the case to the justice court for enforcement of the judgment, as provided by Section 14(2)(b), or render a judgment to be enforced as a judgment of the circuit court.
- d. Section 19(3) concerns appeals by a defendant from a judgement or order described in Section 16(1)(b) or (c), which relates to restitution or probation. It provides that the court shall render a judgement disposing of as much of the case as was tried before the circuit court.
- e. Section 19(4)(a) concerns appeals by defendants in violation cases. It provides that, if a defendant appeals the denial of a motion for relief from default in such a case and the circuit court determines that relief should be granted, the circuit court should vacate the default judgment and either (A) remand the case for further proceedings, or (B) retain the case in the circuit for further proceedings, if the justice court has adopted a rule described in Section 19(4)(b).
- f. Section 19(4)(b) provides that a justice court may adopt a rule to allow proceedings described in Section 19(4)(a) to remain in circuit court.
- g. Section 19(5) concerns pretrial appeals by the prosecution. It provides that, after a circuit court has decided the matter appealed, a party may ask the circuit court to keep the case. If a party does, the circuit court shall take jurisdiction of the case, try the remainder of the case, and render a judgment as if the case had originated in the circuit court. But if no party asks the circuit court to keep the case, then the circuit court shall render a judgment disposing of as much of the case as was tried before the circuit court and remanding the case to the justice court for further proceedings.
- h. Section 19(6) concerns appeals by the prosecution of post-verdict orders. In such appeals, the circuit court "shall render a judgment reflecting its decision and remanding the case to the justice court."



- i. Section 19(7) concerns appeals by the prosecution in violation cases where the justice court granted a motion for relief from default. In such an appeal, if the circuit court determines that the defendant should not be granted relief from default, then the circuit court shall render a judgment vacating the justice court's order granting relief and remanding the case for further proceedings.
2. RELATIONSHIP TO EXISTING LAW
  - a. Section 19 is new. Current law describes a circuit court's judgments in a general manner. See **ORS** 53.125 (civil) and **ORS** 157.065 (misdemeanor and violation). Like Section 14, Section 19 provides more guidance for (and limitations on) circuit courts. It is intended to enable circuit courts to keep cases in certain situations, but to direct circuit courts to send cases back to the justice court in other situations.

**SECTION 20 - Section 20 was intentionally omitted from the bill to maintain the numbering from a prior draft.**

**SECTION 21- STAY OF ENFORCEMENT OF JUDGMENT**

1. SUMMARY

- a. Section 21 concerns stays of the enforcement of judgments in misdemeanor and violation cases. It is intended to retain current law.

2. RELATIONSHIP TO EXISTING LAW

- a. Section 21 is not intended to change existing law.
- b. Section 21(1) is based on ORS 157.050.
- c. Section 21(2) is based on ORS 138.057.
- d. Section 21(3) is intended to clarify that other sources of authority for stays are not affected by the provisions in this section.

**(SECTION 22 - INTENTIONALLY OMITTED TO MAINTAIN NUMBERING FROM PRIOR DRAFTS)****SECTION 23 - APPEAL FROM CIRCUIT COURT**

## 1. SUMMARY

- a. Section 23 concerns what happens after a circuit court has resolved the matter before it on appeal from a justice court.
- b. Section 23(1)(a) provides that in a violation case, "the order or judgment may be appealed as provided in ORS 138.057." Similarly, ORS 138.057(2) provides that, "[s]ubject to provisions of this subsection, an appeal from a judgment involving a violation entered by a circuit court may be taken as provided in ORS chapter 19." That chapter governs civil appeals from circuit courts to the Court of Appeals.
- c. Section 23(1)(b) concerns misdemeanor cases. It provides that, when a misdemeanor case has been appealed from a justice court to a circuit court, the circuit court's order or judgment can be appealed as provided in ORS 138.010 to 138.310. Those statutes govern criminal appeals from circuit courts to the Court of Appeals.
- d. Section 23(2) provides that, in any case where only violations are charged, the state may not appeal from an order dismissing a case based on a police officer's failure to appeal if the officer had timely notice of the trial.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 23(1)(a) is based on ORS 138.057(2), which relates to violations and provides that "an appeal from a judgment involving a violation entered by a circuit court may be taken as provided in ORS chapter 19." ORS 153.121 provides generally that an appeal from a judgment in a violation proceeding may be taken, "[f]rom a proceeding in circuit court, as provided in Chapter 19, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony."
- b. Section 23(1)(b) provides that appeals from a misdemeanor are taken as provided in ORS 138.010 to 138.310. This is intended to retain current law.
- c. Section 23(2) is based on ORS 138.057(3). It is similar to Section 17(3) which prohibits appeals by the state when a police officer fails to appear for trial after timely notice.

## CIVIL ACTIONS

The sections in this part of the bill (Sections 24-30) establish procedures that apply only to civil cases from justice courts.

### SECTION 24 - WHO MAY APPEAL

#### 1. SUMMARY

- a. Section 24 concerns when a party may appeal a judgment in a civil action.
- b. Under Section 24(1), in order to appeal, there must be a minimum amount in controversy (\$30) or the action must be for the recovery of the possession of real property under ORS 105.110 (an eviction case).
- c. The work group discussed the low minimum amount in controversy and noted that it was established in 1977. The group ultimately decided to leave the amount unchanged.
- d. Section 24(2) concerns appeals in cases involving default judgments. The work group spent a significant amount of time discussing such appeals. The work group decided that default judgments themselves should not be appealable. Instead, if a party is seeking relief after a default judgment, the party must file a motion for relief from the default judgment in the justice court. The justice court will rule on that motion. The party can then appeal the ruling on the motion for relief to the circuit court.

#### 2. RELATIONSHIP TO EXISTING LAW

- a. Section 24(1) is based on ORS 53.010.
- b. Section 24(2) is new. It is intended to clarify what parties and courts may do after a default judgment has been entered.

**SECTION 25 - UNDERTAKING FOR COSTS AND DISBURSEMENTS AND STAY OF PROCEEDINGS**

## 1. SUMMARY

- a. Section 25 concerns undertakings and related stays.
- b. Section 25(1)(a) defines "undertaking."
  - i. It makes clear that an undertaking can be supported by security other than personal sureties, including bonds and security deposits, which apparently is the practice of at least some justice courts. The purpose of adding bonds and security deposits as forms of security undertakings is to reflect modern practice whereby most appellants either procure corporate bonds or make cash deposits and do not rely on personal sureties.
  - ii. ORS 22.020 may already permit cash deposits, as well as letters of credit, and other forms of security, but the justice court participants of the work group were uncertain of the applicability of ORS 22.020 and the availability of other forms of security.
- c. Section 25(1)(b) establishes the requirements for a surety.
- d. Section 25(2) requires an appellant to file an undertaking within 5 days after the filing of the notice of appeal, although the justice or circuit court, for good cause, may extend the time for filing.
- e. Section 25(3) concerns stays. Section 25(3) recognizes that an undertaking can serve a purpose other than securing payment of the costs a respondent is likely to incur on appeal; it recognizes that an undertaking also can be used to stay enforcement of the judgment being appealed (such undertakings are often called supersedeas undertakings). To obtain a stay using an undertaking, the appellant must promise in the undertaking to pay the justice court judgment to the extent that the circuit court affirms the justice court's decision; under section (1), any such promise must be supported by sufficient security so that the respondent on appeal will be more readily able collect the amount due if the respondent prevails on appeal.
- f. Section 25(4) concerns objections to the sufficiency of an undertaking. Section 25(4) recognizes that a respondent may object to the adequacy of the appellant's undertaking, which may be especially important if it is a supersedeas undertaking that prevents the respondent from enforcing the judgment pending appeal.
- g. Section 25(5) provides the procedures that will allow the tenant in an eviction action to stay a judgment of eviction pending appeal. It allows a tenant to file an undertaking promising to deposit money with the court each month equal to the fair market rental value of the property. Either in the undertaking or by order of the justice court, the tenant will be obligated to deposit that amount by a certain day each month. So long as the tenant does so, the landlord may not enforce the judgment and evict the tenant. However, if the tenant fails to deposit the entire

amount or fails to deposit it timely in any month, the landlord may proceed to enforce the judgment and evict the tenant. Subsection (5) also provides a means to disburse the funds deposited with the justice court to the persons entitled to the funds after the appeal is resolved. Typically, the landlord would be entitled to all of the deposited funds, but in a case where the lack of habitability of the rental property may affect the fair market rental value of the property, it is possible that some of the funds could be returned to the tenant. Subsection (5)(c) authorizes the circuit to decide such issues on motion of the parties.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 25(1)(b) is based on the first sentence of ORS 53.070.
- b. Section 25(2) is based on ORS 53.030 and ORS 53.040.
- c. Section 25(3) is based on the second sentence of ORS 53.040.
- d. Section 25(4) is new. ORS 53.070 currently recognizes that, on appeal from justice courts in civil cases, ORCP 82 governs the qualifications of sureties and that the adverse party may challenge the qualifications of sureties under ORCP 82. However, under ORS Chapter 22, a party may use other forms of security, such as a cash deposit or a corporate bond. Section 25(4) expands on those provisions and makes explicit that an undertaking can be supported by a bond or a cash deposit. Subsection (4) also recognizes that, under ORCP 82 F, in addition to challenging the qualifications of sureties, the beneficiary of an undertaking may object to such matters as the amount of the undertaking or the lack, or inadequacy, of the security in support of an undertaking. Subsection (4) also recognizes that ORCP 82 G provides a process for hearing and deciding objections to the sufficiency of an undertaking. Subsection (4) differs from ORCP 82 F only in that ORCP 82 F provides that the beneficiary of an undertaking has only 10 days after the undertaking is served and filed to file an objection, but under subsection (4), such party will have 14 days. Using increments of seven days makes it more likely that the due date of a court filing will not fall on a Saturday, Sunday, or holiday when the court will be closed.
- e. Section 25(5) is new and codifies practices that have grown up in circuit courts (and at least some justice courts) in appeals in residential FED (eviction) cases. It is almost impossible for a tenant to get personal sureties or a corporate bond to stay enforcement of a judgment of eviction. The only realistic way for tenants to provide security in support of a stay pending appeal is to make monthly cash deposits with the circuit court equal to the fair market rental value of the property. Section 25 prescribes the procedures for that purpose and is intended to balance the interests of both the tenant and the landlord.
- f. Section 25(6) provides that when judgment is given in the circuit court against the appellant, either with or without the trial of the action, it must also be given against the sureties in the undertaking of the appellant, according to its nature and effect. Section 25(6) is similar to the provision in Section 29.

**SECTION 26 - STAY OF PROCEEDINGS WITHOUT UNDERTAKING**

## 1. SUMMARY

- a. Section 26 provides that, if the justice court judgment is in favor of the appellant, the proceedings on the judgment are stayed by the filing of the notice of appeal and the undertaking for costs.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 26 is based on ORS 53.050 and does not change the substance of current law.

**SECTION 27 - RECALL OF EXECUTION WHEN STAY IS GRANTED**

## 1. SUMMARY

- a. Section 27 requires a justice court to recall the execution of a judgment if the judgment has been stayed.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 27 is based on the second and third sentences of ORS 53.060 and does not change the substance of current law.

**SECTION 28 - ENFORCEMENT OF JUDGMENT IN CONTRACT ACTION NOTWITHSTANDING APPEAL**

## 1. SUMMARY

- a. Section 28 allows a respondent to enforce a judgment in a contract action, despite the filing of an undertaking, if the respondent files an undertaking to the effect that, if the judgment is changed or modified on appeal, the respondent will make such restitution as the circuit court may direct.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 28 is based on ORS 53.080 and does not change the substance of current law.

**SECTION 28a – APPEALS FROM ACTIONS FOR THE RECOVERY OF REAL PROPERTY**

## 1. SUMMARY

- a. Section 28a(1) provides an expedited timeline in appeals for actions for the recovery of real property for justice courts to forward the notice of appeal and case record to the circuit court (10 days).
- b. Section 28a(2) clarifies that no first appearance is required on appeal to the circuit court, and establishes a timeline for trial. This is not intended to affect the ability of the circuit court to hold pretrial hearings or schedule mediation prior to trial at the court's discretion.

## 2. RELATIONSHIP TO EXISTING LAW


- a. This section is new.

**SECTION 29 - JUDGMENT ON DISMISSAL OR AFTER TRIAL; JUDGMENT AGAINST SURETIES**

1. SUMMARY

- a. Section 29 governs what a circuit court must do if it dismisses a case. Among other things, it provides that when judgment is entered against an appellant, it must also be given against any surety.

2. RELATIONSHIP TO EXISTING LAW

- a. Section 29 is based on the second and third sentences in  ORS 53.110 and does not change the substance of current law.



**SECTION 30 - APPEAL FROM CIRCUIT COURT**

## 1. SUMMARY

- a. Section 30 provides that, after an appeal from a justice court that is not a court of record to a circuit court, and after an order or judgment is entered by the circuit court, an appeal may be brought to the Court of Appeals.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 30 is new. It is intended to make explicit that, after a case is appealed from a justice court to a circuit court and, after an order or judgment is entered by the circuit court, thereby, a record is created, the case can be appealed from the circuit court to the Court of Appeals.

**SMALL CLAIMS****INTRODUCTION**

Small claims cases are governed by statutes in ORS Chapter 55. Small claims cases can be heard in justice courts. The bill amends the small claims statutes that relate to appeals from justice courts that are not courts of record. Like other appeals from such courts, the appeal is to the circuit court, which decides the matter anew. Like other civil appeals from justice courts, an appeal requires a minimum amount in controversy. Small claims cases that are originally litigated in the circuit court are not appealable to the Court of Appeals. The same is true for small claims cases that are appealed from the justice court to the circuit court; they cannot go further and be appealed to the Court of Appeals.

**SECTION 30a – CONCLUSIVENESS OF JUDGMENT**

## 1. SUMMARY

- a. Section 30a concerns when an appeal may be taken from a justice court to a circuit court in a small claims case. It provides that an appeal cannot be taken from a judgment by confession or for want of an answer, but an appeal can be taken from a ruling on a motion for relief from default. It also establishes a \$30 minimum amount at issue, which is the same as for other civil cases. See Section 24(1).
- b. Note that Section 30a(3)(b) bars appeal from the small claims department of a justice court of record.

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 30a modifies ORS 55.110. It adds provisions addressing judgments taken by confession or for want of an answer (default judgments). It treats appeals in cases involving default judgments the same as other sections of the bill: it requires the defaulting party to file a motion for relief from default and it allows an appeal of the justice court's ruling on that motion. Section 30a makes it clear

that appeals from justice courts in small claims cases are allowed only when the justice court is not a court of record.

**SECTION 30b**

1. SUMMARY - Section 30b concerns the placement of Section 30s in the ORS. Its purpose is to make sure that the small claims sections of the bill are placed in the series of statutes in ORS Chapter 55 that concern small claims.

**SECTION 30c**

## 1. SUMMARY

- a. Section 30c(1) provides that appeals to justice courts in small claims cases shall proceed in the manner provided in the bill for other appeals to justice courts. It also requires the State Court Administrator to create a model form for notices of appeal in small claims cases. In addition, Section 30c provides that appeals in small claims cases are decided anew (like other appeals from justice courts that are not of record). Finally, Section 30c provides that the circuit court's decision shall be final and conclusive (which is the case for small claims cases that originate in circuit court).

## 2. RELATIONSHIP TO EXISTING LAW

- a. Section 30c is based on ORS 55.110, which provides for appeals from justice courts to circuit courts. Section 30c retains some parts of ORS 55.110, eliminates others, and adds new provisions. It makes substantive changes to the law, as discussed below.
- b. Section 30c provides that the appeal shall proceed in the manner provided in section 8 to 30 of the bill.
  - i. Section 8 requires notices of appeal to be filed within 30 days of the date of entry of the judgment in the justice court docket. Currently, ORS 55.110 establishes a 10-day deadline for small-claims notices of appeal. Section 30c changes the deadline from 10 days to 30 days. The work group discussed this change and many participants strongly supported it both because participants thought that the deadline should be the same for all case types to avoid confusion and because participants thought 10 days was too short.
  - ii. This amendment, combined with the repeal of ORS 55.120, has the effect of extending the time within which a small claims appellant must file the undertaking at the same time as filing the notice of appeal to five days after filing of the notice of appeal.
- c. Section 30c also deletes a section of ORS 55.110 that required a party that unsuccessfully appealed to pay a \$10 attorney fee to the other party. The deletion is because the amount is an anachronism and small claims litigants rarely would have incurred any attorney fees, and the amount is too low to be meaningful.

## AMENDMENTS TO EXISTING STATUTES

**Section 30d** amends ORS 19.240, which addresses how appeals are taken from circuit courts and justice and municipal courts of record to the Court of Appeals. The amendment in ORS 19.240(2)(c) clarifies a requirement to serve the notice of appeal on the trial court transcript coordinator “if applicable.” The amendment reflects that justice courts do not have transcript coordinators.

**Section 30e** amends ORS 153.105 and outlines the criteria and process for relief from a default judgment in violation cases. The amendment to ORS 153.105(1) modifies the term “mistake” to explicitly include “a clerical mistake” or that the court committed a legal error in entering the judgment as reasons for relief from a default judgment. Further, the addition of Section 30e(3) to ORS 153.105 makes explicit that the additional reasons in ORS 153.105(1) do not limit the inherent authority of the court to relieve a party of a judgment within a reasonable time. The intent is to have requests for relief from default in violation cases more closely align with requests for relief from default in civil cases in circuit courts.

Section 30e(2) adds a requirement that a justice court must note in the docket if a defendant makes an oral request for relief from default or if the court rules on the request orally that the request was made and the court’s decision was made on that request.

### (SECTION 31 - INTENTIONALLY OMITTED TO MAINTAIN NUMBERING FROM PRIOR DRAFTS)

**Section 32** amends ORS 138.005, which defines terms for appeals to the Court of Appeals in criminal (felony and misdemeanor) cases. The amendment is needed because, in appeals from justice and municipal courts of record in prosecutions for misdemeanors created by a county or a municipality, the county or the city is the real party in interest for the prosecution in the case; therefore, the provisions of ORS Chapter 138 governing appeals in criminal cases that apply to the State of Oregon for misdemeanors created by state law also need to apply to counties and cities for misdemeanors created by counties or cities.

**Section 32a** amends ORS 138.090 amends ORS 138.090 to avoid unintended consequences from the addition of the new definition of “state” in ORS 138.005.

**Section 33** amends ORS 138.057(2) to incorporate this bill’s appellate provisions relevant to violations for courts not-of-record. It further clarifies that nothing in this section is intended to affect the authority of the circuit court to stay enforcement of the judgment. Finally, the amendment also clarifies that in a violation case, the state may not appeal from an order dismissing the case that is entered by reason of a police officer’s failure to appear at the trial of the matter if the police officer was timely provided with notice of the trial.

**Section 34** amends ORS 138.081, which addresses service and filing of notices of appeal in criminal (felony and misdemeanor) cases. The amendments reflect that counties and cities have

the authority to appeal misdemeanors and, on a defendant's appeal in such cases, the prosecutor to be served with notice of appeal is the county counsel or the city attorney.

## REPEALS

**Section 35** – Repeals the following statutes: ORS 21.285, ORS 51.070, ORS 51.080, ORS 51.090, ORS 51.110, ORS 51.120, ORS 51.130, all of ORS Chapter 53 and all of ORS Chapter 157. The essential provisions of those statutes are reenacted in other parts of the bill and are part of the workgroup's effort to consolidate and streamline statutory provisions now scattered across a number of ORS chapters, and to reorganize them in a more logical and user-friendly manner. A notable exception is the elimination of trial fees on appeal from violations through repeal of ORS 21.285 without reenactment of the trial fees provision. This is addressed in the comments to Section 10a above.

**Section 35a** – Conforming Amendment.

## MUNICIPAL COURTS

As mentioned, one of the projects goals was to clarify the processes for appeals from local courts, and one way the work group tried to do that was to make the processes the same (or as similar as possible) for appeals in different case types and from different courts. Although the work group considered drafting a single set of statutes for appeals from both justice and municipal courts, it ultimately decided against that because of how the current statutes are organized, with justice court provisions and municipal court provisions in different ORS chapters. But, because the work group wanted to make the processes for justice and municipal courts the same (or as similar as possible), the sections of the bill that relate to justice courts and are described above are mirrored in the sections that relate to misdemeanor courts. The following chart shows the municipal court sections of the bill and their corresponding justice court sections.

<b>MUNICIPAL COURT PROVISION</b>	<b>SUBJECT</b>	<b>JUSTICE COURT PROVISION</b>
36	Not applicable to justice courts; simply specifies where Section 36a to 51 should be added to the ORS: in chapter 221	N/A
37	Transfer to circuit court	5
37a	Adverse party contact information	6a
37b	Definition of "matter"	6b
38	Court to which appeal is taken	7
39	Time within which appeal must be taken	8
39a	Contents of notice of appeal	9
40	Filing and service of notice of appeal	10
40a	Filing fee	10a
41	Jurisdiction over the matter and to decide the appeal	11
41a	Submission of the record	12
42	Proceedings in the circuit court and standard of review generally	13
42a	Rendering judgment; remand; notice to justice court	14
43	Availability of writ of review	15
43a	Appeal and cross-appeal by the defendant	16
44	Appeal by the prosecution	17
44a	Proceedings in circuit court generally in cases charging offenses	18
45	Scope of review in general of order or judgment other than judgment of conviction and sentence	18a
46	Scope of review in specific cases	18b
47	Circuit court proceedings in specific appeals	19
48	(intentionally omitted to retain numbering from earlier draft)	20
49	Stay of enforcement of judgment	21
50	Validity of charter or ordinance provision determined before merits	None
51	Appeal from circuit court to Court of Appeals	23

Because the municipal court sections generally mirror the justice court sections, this report does not repeat the explanations of the sections here. Notably, one of the municipal court sections, Section 50, does not have a corresponding justice court section. That is because Section 50 concerns a subject that, under current law, is unique to municipal courts. Portions of Section 43a are also unique.

### **SECTION 43a – APPEAL AND CROSS-APPEAL BY THE DEFENDANT**

Although LC 156 reorganizes and rewrites ORS 221.359 and 221.360 to promote clarity, the Work Group intends to preserve the meaning of ORS 221.359 and 221.360 and the case law interpreting and applying those statutes. By replicating part of ORS 221.359 in Section 43a(5) and ORS 221.360 in Section 43a(6), the Work Group intends to preserve *City of Eugene v. Lincoln*, 183 Or App 36, 50 P3d 1253 (2002), and *City of Lowell v. Wilson*, 197 Or App 291, 105 P3d 856, rev den, 339 Or 406 (2005), as authoritative case law.<sup>23</sup>

### **SECTION 50 - VALIDITY OF CHARTER OR ORDINANCE PROVISION DETERMINED BEFORE MERITS**

#### 1. SUMMARY

- a. Section 50(1) provides that, whenever a defendant is charged with violating a provision of city charter or ordinance and the defendant challenges the constitutionality of the charter or ordinance provision, the municipal court shall determine the challenge and enter an order on that issue before deciding the case on its merits.
- b. Section 50(2) provides that, if the municipal court judge declares the provision unconstitutional, the city may appeal from the municipal court to the circuit court, and that if the circuit court affirms the municipal court, the city may appeal to the Court of Appeals. It further provides that, if a city so appeals, the defendant shall be released, with or without bond, for reappearance at the discretion of the trial court until such time as the case is remanded.
- c. Section 50(3) provides that, if the municipal court declares the charter or ordinance provision valid, the municipal court may proceed to try the matter. If the municipal court convicts the defendant, the defendant may appeal as provided in Section 51.

### **AMENDMENTS TO EXISTING STATUTES**

**Section 52** amends ORS 221.352 and identifies what should be included in a municipal court case record. Section 3 of the bill identifies what should be included in a justice court case record. The amendments to ORS 221.352 are intended to more closely align the case records of

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<sup>23</sup> The description of Section 43a above was inadvertently left out of the final report submitted to the Oregon Law Commission at their December 5, 2024 meeting.

justice and municipal courts and to insure that, if an appeal is taken from a justice or municipal court, the appellate court has the same case materials that were considered by the justice or municipal court. The amendments clarify that the case record has two essential parts: the docket, which is a log of every significant event in a case and every document filed in a case, and the case file, which contains the documents themselves. Section 52 also provides that, if a party arranges to have a municipal court proceeding recorded, it is part of the case record if all parties agree that the recording is the official record of the proceeding, and the recording or other reporting has been filed with the court. Lastly, Section 52 allows municipal courts to maintain their dockets and case file in electronic form. While Section 52 and Section 3 address many of the same issues, the language in the two sections do not directly mirror each other.

**Section 52a** amends ORS 221.358 and allows for audio, stenographic or other recording of municipal court proceedings in courts not of record and gives such courts the authority to determine how to store those recordings based on their resources. Section 52 mirrors the provisions of ORS 51.105, which authorizes parties in cases in justice courts not of record to arrange for recording of court proceedings.



## REPEALS

**Section 53** repeals the following sections of ORS Chapter 221: ORS 221.359, ORS 221.360, ORS 221.370, ORS 221.380 and ORS 221.390. These statutes constitute the complete subsection “Appeals” in ORS Chapter 221. The essential provisions of these statutes are reenacted by the bill, in some instances replicating the exact wording in current statutes. The repeal and reenactment is part of the workgroup’s effort to make the statutes more user-friendly. As previously noted in this report, under current law, municipal courts operate much like justice courts, but the statutes that govern appeals require the reader to flip back and forth between a number of chapters to determine the process for appeals. Based on the advice of Legislative Counsel, the workgroup elected to recommend this bill, which assembles the statutes applicable to justice courts in the ORS title applicable to state courts in one place and the statutes applicable to municipal courts in the ORS title applicable to cities.

## CONFORMING AMENDMENTS

**Section 54 – Section 55** contain technical amendments for statutes that cross-reference or are otherwise affected by statutes being amended or repealed.

## CAPTIONS

**Section 55** explains that the unit and captions used in the bill are provided only for convenience and do not become part of the statutory law.

## OPERATIVE DATE

**Section 56** provides that sections of the bill become operative on January 1, 2026.

**Section 57** provides that the act takes effect on the 91st day after the date on which the regular session of the 83rd Legislative Assembly adjourns.

## TABLE OF SECTIONS

<b>JUSTICE COURT PROVISIONS</b>		
<b>PROVISION</b>	<b>SUBJECT</b>	<b>CORRESPONDING MUNICIPAL COURT PROVISION</b>
<b>JUSTICE COURTS GENERALLY</b>		
1	Amending ORS 51.050	ORS 221.339 is corresponding provision, not amended by the bill
1a	Amending ORS 156.705	None
2	Civil Jurisdiction	None because municipal courts do not hear civil actions
3	Case Record	52
4	Keeping Case Record	None
5	Transfer to circuit court	37
6	Pleas	37(2)
6a	Adverse party contact info	37a
<b>APPEALS FROM JUSTICE COURTS GENERALLY</b>		
6b	Definition of "matter"	37b
7	Court to which appeal is taken	38
8	Time within which appeal must be taken	39
9	Contents of notice of appeal	39a
10	Filing and service of notice of appeal	40
10a	Filing fee in civil cases	40a
11	Jurisdiction over the matter and to decide the appeal	41
12	Submission of the record	41a
13	Proceedings in the circuit court and standard of review generally	42
14	Rendering judgment; remand; notice to justice court	42a
15	Availability of writ of review	43
<b>VIOLATION AND MISDEMEANOR APPEALS FROM JUSTICE COURTS</b>		
16	Appeal and cross-appeal by the defendant	43a
17	Appeal by the prosecution	44
18	Proceedings in circuit court generally in cases charging offenses	44a
18a	Scope of review in general of order or judgment other than judgment of conviction and sentence	45

18b	Scope of review in specific cases	46
19	Circuit court proceedings on appeal in violation and misdemeanor cases	47
20	(intentionally omitted)	
21	Stay of enforcement of judgment	49
--	Validity of charter or ordinance provision determined before merits	50
22	(intentionally omitted)	None
23	Appeal from circuit court	51
<b>CIVIL APPEALS FROM JUSTICE COURTS</b>		
24	Who may appeal	None because municipal courts do not hear civil actions
25	Undertaking for courts and disbursements	None because municipal courts do not hear civil actions
26	Stay of proceedings without undertaking	None because municipal courts do not hear civil actions
27	Recall of execution when stay granted	None because municipal courts do not hear civil actions
28	Enforcement of judgment in contract action notwithstanding appeal	None because municipal courts do not hear civil actions
28a	Appeals from actions for the recovery of real property	None because municipal courts do not hear civil actions
29	Judgement on dismissal or after trial; judgment against sureties	None because municipal courts do not hear civil actions
30	Appeal from circuit court	None because municipal courts do not hear civil actions
<b>SMALL CLAIMS APPEALS FROM JUSTICE COURTS</b>		
30a	Appeals from rulings on motions for relief from default	None because municipal courts do not hear civil actions
30b	Adding section 30 c to ORS Chapter 55	None because municipal courts do not hear civil actions
30c	Appeals to be taken the same as for appeals in civil cases generally	None because municipal courts do not hear civil actions
<b>AMENDING EXISTING STATUTES RELATING TO JUSTICE COURT APPEALS</b>		
30d	Amending ORS 19.240 (technical amendment)	
30e	Amending ORS 153.105 re: motions for relief from default in violation cases	Chapter 153 applies to violation proceedings in all courts
31	(intentionally omitted)	

32	Amending ORS 138.005 to define "state" to include a city in a prosecution in municipal court	
32a	Amending ORS 138.090 to conform to amendments of ORS 138.005 in Section 32.	
33	Amending ORS 139.057	Also applies to municipal courts
34	Amending ORS 138.081	
<b>REPEALS</b>		
35	Repeals various statutes	
<b>CONFORMING AMENDMENTS</b>		
35a	Amending ORS 21.135 relating to filing fees	Applies by its terms to municipal courts
35b	Amending ORS 21.160 relating to filing fees on appeal from justice courts in civil cases	None because municipal courts do not hear civil actions
35c	Amending ORS 21.160 relating to appeals from a justice court that ceases to be a court of record	54
<b>MUNICIPAL COURT PROVISIONS</b>		
<b>PROVISION</b>	<b>SUBJECT</b>	<b>CORRESPONDING JUSTICE COURT PROVISION</b>
36	Not applicable to justice courts; adds Section 36a to 51 to ORS chapter 221	
37	Transfer to circuit court	5
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49	Stay of enforcement of judgment	21
50	Validity of charter or ordinance provision determined before merits	None
51	Appeal from circuit court to Court of Appeals	23
<b>AMENDING EXISTING STATUTES</b>		
52	Amending ORS 221.352 re: case record	
<b>REPEALS</b>		
53	Repeals various statutes	
<b>CONFORMING AMENDMENTS</b>		
54	Amends ORS 221.343 re: appeals from a municipal court of record	35c
55	Captions provisions	
56	Operative date	
57	Effective Date	

## AMENDMENT NOTES

### Substantive Change

#### Section 9, Section 13 and Section 18b – Justice Courts (Section 39a, Section 42, and Section 46 – Municipal Courts)

The -1 Amendment addresses a concern regarding the process included in HB 2460 as introduced to appeal a guilty or no contest plea. The proposed language draws from the statutes that would be relevant to appeals of guilty or no contest pleas in ORS 138.105 and 138.085, which establish a requirement to plead a claim of legal error in the notice of appeal.

The goal of this language is to incorporate the concept from ORS Chapter 138 into the framework for appeals from courts not-of-record. But, because of the lack of record, the circuit court will not assess the merits of the asserted claim of legal error. Instead, a new sentencing proceeding is necessary because legal questions like whether a consecutive sentence was allowed would be dependent on the evidence about the facts of the case, and whether any factual findings in a written order were supported by the record could not be determined without a record.

The equivalent changes were made to the municipal court sections (Sections 39a, Section 42, and Section 46).

**Technical Changes**

Additional changes were made to HB 2460 by the -1 Amendment. These changes, however, were technical in nature, and do not change the analysis found in the report.

--- END OF REPORT --