

SB 1557 A STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/23, 2/25

WHAT THE MEASURE DOES:

The measure modifies the process by which a person may file for contempt of court, including the requirement that a contempt plaintiff file a supporting affidavit under oath. The measure specifies court actions, civil procedures, and available sanctions in a contempt proceeding. It uses more specific and consistent terminology for the parties and pleadings in a contempt proceeding. It allows the court to grant to the prevailing party attorney fees and costs under ORCP 68. It states where actions for contempt shall be filed.

In a case deciding the parentage of a child born by assisted reproduction under a gestational surrogacy contract, the measure renders associated court records confidential instead of sealed. This portion of the measure takes effect on the 91st day following adjournment sine die.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

Senate Vote: Ayes, 28; Excused, 2

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The ability to punish an act of contempt is part of the court's inherent power to enforce its orders, judgments, and conduct in proceedings. "Contempt of court," as described in ORS 33.015, means the following:

- Misconduct in the presence of the court that interferes with a court proceeding or with the administration of justice, or that impairs the respect due the court
- Disobedience of, resistance to, or obstruction of the court's authority, process, orders, or judgments
- Refusal as a witness to appear, be sworn, or answer a question contrary to an order of the court
- Refusal to produce a record, document, or other object contrary to an order of the court
- Violation of a statutory provision that specifically subjects the person to the contempt power of the court

There are three types of contempt of court proceedings: summary, punitive, and remedial. A court may **summarily** impose a sanction upon a person who commits a contempt of court in the immediate view and presence of the court, to maintain the court's order, authority, or dignity. A **punitive** sanction may be imposed to punish a past contempt of court that can no longer be fixed by compliance. A **remedial** sanction may be imposed to terminate a continuing contempt of court or to compensate for injury, damage, or costs resulting from a past or continuing contempt of court. A finding of contempt is not a crime, nor is it a civil finding; it is its own judgment of contempt. Senate Bill 1557 focuses on remedial contempt.

Court records that are not confidential or sealed are available to the public. Certain categories of cases are confidential by law, and access to those cases is limited. A person may also ask the court to make a case or document confidential or sealed, but the burden on the requester is high. Accessing a sealed record generally requires a court order. Parties to a confidential case can generally access the records of the case.