

**REVENUE:** No revenue impact

**FISCAL:** No fiscal impact

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|-----------------------|--|
| <b>Action:</b>        | Do Pass                                |
| <b>Vote:</b>          | 4 - 0 - 1                              |
| <b>Yeas:</b>          | Bonamici, Dingfelder, Kruse, Prozanski |
| <b>Nays:</b>          | 0                                      |
| <b>Exc.:</b>          | Whitsett                               |
| <b>Prepared By:</b>   | Aaron Knott, Counsel                   |
| <b>Meeting Dates:</b> | 5/11                                   |

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**WHAT THE MEASURE DOES:** Provides that identification documents are not subject to garnishment. Provides that a sheriff is not liable to a garnishor or debtor for the loss of or damage to property that is not delivered to the sheriff pending sale of property. Allows the sheriff to take possession of identification documentation found in a safe deposit box but forbids the sheriff to sell these documents in satisfaction of a debt. Allows establishment of legal notices website for purposes of execution sales if the majority of elected sheriffs enter into an intergovernmental agreement for the purpose of establishing and maintaining the website. Allows a judgment debtor to pay moneys owing under a writ of execution at any time before delivery of a bill of sale for personal property at an execution sale or before the delivery of a certificate of sale for real property at an execution sale.

**ISSUES DISCUSSED:**

- Options existing to sheriffs when they come into possession of identifying documentation
- Federal prohibitions against trafficking in the personal identification of another person
- Prioritization of multiple judgment bearing creditors

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** ORS 18.618 exempts certain property from garnishment. House Bill 2692 adds an exemption for identification documents such as a driver license, passport, birth certificate or Social Security card. House Bill 2692 similarly clarifies that these documents are not subject to execution and a writ of execution may not direct a sheriff to levy on an identification document except for the purpose of delivering the document pursuant to the terms of a judgment which compels the delivery of specific real or personal property.

ORS 18.755 allows for a garnishor to require the sale of property held by a garnishee and directs that the proceeds of the sale be applied against the debt owed the garnishor. The sale may be conducted only by the sheriff of the county in which the writ was delivered. The sheriff is statutorily authorized to determine whether the property to be sold should be taken into the possession of the sheriff or whether the sheriff should enter into an agreement with the garnishee for the garnishee to continue to hold the property pending sale by the sheriff. House Bill 2692 specifies that a sheriff is not liable to the garnishor, the debtor or any other person for loss or damage to property that is not delivered to the sheriff pending sale of the property.

ORS 18.792 allows a sheriff to obtain the contents of a financial safe deposit box which is in the garnishee's possession or control at the time the writ of garnishment is delivered. House Bill 2692 specifies that if a sheriff is instructed to seize and sell the contents of a safe deposit box and the box contains an above described personal identification document, the sheriff may take possession of the document but may not sell the document in satisfaction of the debt.

ORS 18.862 requires a writ of execution to contain certain information, including the amount of money owing on a potential money award. House Bill 2692 adds the requirement of a statement of interest accrued as of the date the writ is

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***This summary has not been adopted or officially endorsed by action of the committee.***

mailed and a projection of per diem additional interest accrual. House Bill 2692 moves the provision concerning notice to be provided regarding the sale of real property from ORS 18.875 to ORS 18.924.

ORS 18.926 allows for a website to be formed and administered under an intergovernmental agreement between sheriffs' offices for the posting of legal notices but currently requires all sheriffs to act as parties to the intergovernmental agreement as a predicate to the formation of the website. House Bill 2692 modifies this requirement to allow for the formation of the website upon the agreement of a majority of sheriffs.

House Bill 2692 modifies ORS 18.930 to provide that at any time before the sheriff conducts a sale for personal property, the judgment debtor may pay the full amount owing and thereby stop the sale and compel the return of the property.