

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass with Amendments to the A-Engrossed Measure. (Printed B-Engrossed)

Vote: 4 - 0 - 1

Yeas: Dingfelder, Kruse, Whitsett, Prozanski

Nays: 0

Exc.: Bonamici

Prepared By: Aaron Knott, Counsel

Meeting Dates: 5/25, 5/31

WHAT THE MEASURE DOES: Requires an agency to record the issuance of a warrant in the County Clerk Lien Record for the county in which the sheriff serves. Provides that the sheriff's documentary record of return of service of the warrant is not considered hearsay for purposes of the Oregon Evidence Code (OEC) in civil or criminal proceedings.

ISSUES DISCUSSED:

- Obligation on sheriffs to record warrants before serving them
- Staff and resource stresses created by this obligation
- Definition of hearsay

EFFECT OF COMMITTEE AMENDMENT: Expands department remedies to enforce claims.

BACKGROUND: Sheriffs are statutorily authorized to serve warrants for a variety of enumerated purposes, including for nonpayment of moneys owed to the Department of Transportation, Department of Revenue, or to the Director of the Employment Department. If a person fails to pay a delinquent debt, these agencies may issue a warrant under their official state seal directed to the sheriff of any county commanding the sheriff to levy upon and sell the real and personal property of the person for payment of the amount due. Under current law, the sheriff is obligated to record with the clerk of the county a copy of the warrant within five days of receipt. House Bill 2693 B removes this obligation from the sheriff and obligates the department issuing the warrant to record the warrant within the County Clerk Lien Record for the county in which the sheriff services. Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes, penalties and interest against the taxpayer as if the state had recovered judgment against the taxpayer for the amount of the tax, penalties and interest.

ORS 40.460 codifies the portion of the OEC pertaining to the admissibility of documents in criminal and civil cases which otherwise violate the general prohibition against the admission of hearsay evidence – statements made by an out of court declarant and introduced for the truth of the matter asserted by the statement or document. To the existing twenty-eight hearsay exceptions enumerated within this section, House Bill 2693 B adds a new subset to ORS 40.460(8), which includes records, reports, statements or data compilations, in any form, of public offices or agencies, setting forth evidence of a sheriff's return of service in a civil or criminal proceeding.