

A-Engrossed
House Bill 2316

Ordered by the House April 27
Including House Amendments dated April 27

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Repeals obsolete provision relating to jury trials in county courts.]

Increases certain fees charged by justice courts. Provides that trial fee may not be charged in small claims department of justice court.

Allows court to order, or district attorney or defendant to file petition to conduct, deposition to perpetuate testimony of material witness.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; amending ORS 51.310, 52.410 and 55.130; declaring an
3 emergency; and providing for revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1.** ORS 51.310 is amended to read:

6 51.310. (1) Except as provided in ORS 105.130, the justice of the peace shall collect, in advance
7 except in criminal cases, and issue receipts for, the following fees:

8 (a) For the first appearance of the plaintiff, [~~\$40~~] **\$90**.

9 (b) For the first appearance of the defendant, [~~\$40~~] **\$90**.

10 (c) In the small claims department, for a plaintiff filing a claim, [~~\$28~~] **\$35**; and for a defendant
11 requesting a hearing, [~~\$28~~] **\$35**.

12 (d) For transcript of judgment, [~~\$6~~] **\$9**.

13 (e) For transcript of judgment from the small claims department, [~~\$6~~] **\$9**.

14 (f) For certified copy of judgment, [~~\$6~~] **\$9**.

15 (g) For issuing writs of execution or writs of garnishment, [~~\$6~~] **\$20** for each writ.

16 [~~(h) For taking an affidavit of a private party, \$1.~~]

17 [~~(i) For taking depositions, for each folio, 70 cents.~~]

18 **(h) For issuing notices of restitution as provided in ORS 105.151, \$10 for each notice.**

19 **(i) For filing a motion described in ORS 21.200 in an action not in the small claims de-**
20 **partment, \$30.**

21 (j) For supplying to private parties copies of records and files, the same fees as provided or es-
22 tablished for the county clerk under ORS 205.320.

23 (k) For each official certificate, [~~\$1~~] **\$10**.

24 (L) For taking and certifying for a private party an acknowledgment of proof of any instrument,
25 [~~\$3~~] **\$10**.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (m) Costs in criminal cases, where there has been a conviction, or upon forfeiture of security,
2 \$5.

3 (2) Not later than the last day of the month immediately following the month in which fees set
4 forth in subsection (1) of this section are collected, the justice of the peace shall pay all such fees,
5 other than those for performing marriage ceremonies, over to the county treasurer of the county
6 wherein the justice of the peace was elected or appointed, for crediting to the general fund of the
7 county, and shall take the receipt of the treasurer therefor.

8 **SECTION 2.** ORS 51.310, as amended by section 1 of this 2015 Act, is amended to read:

9 51.310. (1) Except as provided in ORS 105.130, the justice of the peace shall collect, in advance
10 except in criminal cases, and issue receipts for, the following fees:

11 (a) For the first appearance of the plaintiff, \$90.

12 (b) For the first appearance of the defendant, \$90.

13 (c) In the small claims department, for a plaintiff filing a claim, [~~\$35~~] **\$37**; and for a defendant
14 requesting a hearing, [~~\$35~~] **\$37**.

15 (d) For transcript of judgment, \$9.

16 (e) For transcript of judgment from the small claims department, \$9.

17 (f) For certified copy of judgment, \$9.

18 (g) For issuing writs of execution or writs of garnishment, \$20 for each writ.

19 (h) For issuing notices of restitution as provided in ORS 105.151, \$10 for each notice.

20 (i) For filing a motion described in ORS 21.200 in an action not in the small claims department,
21 \$30.

22 (j) For supplying to private parties copies of records and files, the same fees as provided or es-
23 tablished for the county clerk under ORS 205.320.

24 (k) For each official certificate, \$10.

25 (L) For taking and certifying for a private party an acknowledgment of proof of any instrument,
26 \$10.

27 (m) Costs in criminal cases, where there has been a conviction, or upon forfeiture of security,
28 \$5.

29 (2) Not later than the last day of the month immediately following the month in which fees set
30 forth in subsection (1) of this section are collected, the justice of the peace shall pay all such fees,
31 other than those for performing marriage ceremonies, over to the county treasurer of the county
32 wherein the justice of the peace was elected or appointed, for crediting to the general fund of the
33 county, and shall take the receipt of the treasurer therefor.

34 **SECTION 3. The amendments to ORS 51.310 by section 2 of this 2015 Act become opera-**
35 **tive on January 1, 2018, and apply only to claims filed and hearings requested on or after**
36 **January 1, 2018.**

37 **SECTION 4.** ORS 52.410 is amended to read:

38 52.410. (1) Parties to judicial proceedings in justice courts are required to contribute toward the
39 expense of maintaining justice courts, or a particular action or proceeding therein, by the payment
40 of a trial fee, **except that a trial fee may not be required for a hearing or trial in the small**
41 **claims department of a justice court.**

42 *[(2) The trial fee in a justice court, for every trial by jury, is \$17.]*

43 **(2) The trial fee in a justice court for a trial by jury is \$100 for each full or partial day**
44 **of trial, payable by the party demanding the jury trial at the time the demand is made.**

45 **(3) The trial fee in a justice court for a trial without a jury is \$100 for each full or partial**

1 **day of trial, payable by the plaintiff when the action or proceeding is set for trial.**

2 (4) **If a trial continues beyond the number of days originally paid for under subsection (2)**
3 **or (3) of this section, the fee for subsequent days of trial must be paid in advance of each**
4 **day the trial continues by the party responsible for the fee under subsection (2) or (3) of this**
5 **section.**

6 **SECTION 5.** ORS 55.130 is amended to read:

7 55.130. (1) If no appeal is taken by a party against whom a judgment to make payment is ren-
8 dered and the party fails to pay the judgment according to the terms and conditions thereof, the
9 justice of the peace before whom the hearing was had, may, on application of the prevailing party,
10 certify the judgment in substantially the following form:

11 _____

12
13 In the Justice Court for _____ District, _____ County, Oregon.

14 _____
15 Plaintiff,

16 vs.

17 _____
18 Defendant.

19 In the Small Claims Department

20 This is to certify that in a certain action before me, the undersigned, had on this, the _____
21 day of _____, 2____, wherein _____ was plaintiff and _____ was defendant, juris-
22 diction of the defendant having been had by personal service (or otherwise), as provided by law, I
23 then and there entered judgment against the (defendant or plaintiff) in the sum of _____ dollars,
24 which judgment has not been paid.

25 Witness my hand this _____ day of _____, 2____.

26 _____
27 Justice of the Peace
28 Sitting in the Small
29 Claims Department.
30 _____

31
32 (2) Upon the payment of a fee of [5] \$9, the justice of the peace shall forthwith enter the
33 judgment transcript on the docket of the justice court. Thereafter execution and other process on
34 execution provided by law may issue thereon as in other cases of judgments of justice courts, and
35 transcripts of the judgments may be filed and entered in judgment dockets in circuit courts with like
36 effect as in other cases.

37 **SECTION 6.** The amendments to ORS 51.310, 52.410 and 55.130 by sections 1, 4 and 5 of
38 this 2015 Act apply only to proceedings commenced or services provided on or after October
39 1, 2015.

40 **SECTION 7.** (1) As used in this section, “material witness order” has the meaning given
41 that term in ORS 136.608.

42 (2) At any time after the court enters a material witness order, the court may order, or
43 the district attorney or the defendant may file a petition to conduct, a deposition to perpet-
44 uate the testimony of the material witness.

45 (3)(a) The petition must be in writing and sworn to by the petitioner.

1 **(b) The petitioner shall serve a notice and a copy of the petition on the opposing party**
2 **and on the material witness.**

3 **(4) A petition filed under this section must describe:**

4 **(a) The basis on which the court entered the material witness order;**

5 **(b) Any findings made by the court in establishing the security amount under ORS**
6 **136.612;**

7 **(c) Any findings made by the court in detaining the material witness; and**

8 **(d) The reasons that perpetuating the testimony of the material witness is necessary.**

9 **(5) The court shall grant or deny the petition no later than 30 days after the date the**
10 **petition is filed. The court shall consider whether the perpetuation of the testimony will**
11 **prevent failure or delay of justice for the parties and the material witness. If the court or-**
12 **ders the deposition of the material witness, the court may specify the subject matter of the**
13 **deposition, impose limitations on the deposition and require audio or video recording of the**
14 **deposition.**

15 **(6) The deposition of a material witness under this section does not invalidate or other-**
16 **wise affect the material witness order, but may be considered in connection with an appli-**
17 **cation to vacate or modify the order under ORS 136.612 (5).**

18 **(7) The Oregon Evidence Code applies to depositions under this section.**

19 **SECTION 8. This 2015 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
21 **on its passage.**

22