

Enrolled
House Bill 2240

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Chief Justice Martha L. Walters for Judicial Department)

CHAPTER

AN ACT

Relating to the establishment of a Central Violations Bureau; creating new provisions; amending ORS 8.120, 153.036, 153.061 and 153.800; and prescribing an effective date.

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

SECTION 1. (1) The State Court Administrator may establish a Central Violations Bureau for the processing of violations in circuit courts.

(2)(a) The administrator may designate employees of the administrator to act as violations clerks for the Central Violations Bureau.

(b) A violations clerk shall serve under the direction and control of the administrator.

(c) A violations clerk of the Central Violations Bureau may exercise authority over any violation specified by the Chief Justice of the Supreme Court under subsection (4) of this section.

(3) A circuit court may use a Central Violations Bureau established under this section in addition to establishing and operating a Violations Bureau under ORS 153.800.

(4) The uniform fine schedule for violations prosecuted in circuit courts established by the Chief Justice of the Supreme Court under ORS 153.800 must specify the violations that are subject to the authority of the Central Violations Bureau violations clerk.

(5)(a) Except as provided in subsection (7) of this section, a violations clerk shall accept:

(A) Written appearance or appearance by electronic or telephonic means, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(B) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.

(b) A violations clerk may accept payments made by electronic or telephonic means.

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(6)(a) A person charged with a violation within the authority of the violations clerk may:

(A) Upon signing an appearance, plea of no contest and waiver of trial, or upon appearing and entering a plea and waiver by electronic or telephonic means, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(B) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent

to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(b) Notwithstanding ORS 153.021 and paragraph (a) of this subsection, the violations clerk may offer a reduction in the presumptive fine for a person making payment through the Internet.

(7) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the Chief Justice of the Supreme Court, by general order applying to certain specified offenses, permits such appearance.

(8) The Chief Justice of the Supreme Court may adopt rules to carry out the provisions of this section.

SECTION 2. ORS 8.120 is amended to read:

8.120. (1) The State Court Administrator shall, for the Supreme Court and Court of Appeals:

- (a) Act as court administrator for the court.
- (b) Keep the seal of the court, and affix it in all cases required by law.
- (c) Record the proceedings of the court.
- (d) Keep the records, files, books and documents pertaining to the court.
- (e) File all documents delivered to the administrator for that purpose in any action or proceeding in the court.
- (f) Attend the terms of the court, unless excused by the court, and administer oaths.
- (g) Under the direction of the court enter its orders and judgments.
- (h) Authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any document pertaining thereto, and filed with the administrator.
- (i) In the performance of duties pertaining to the court, conform to the direction of the court.

(2) The State Court Administrator may establish and operate a Central Violations Bureau under section 1 of this 2019 Act.

[2] (3) The State Court Administrator may delegate powers of the office of State Court Administrator to officers and employees of the Judicial Department designated by the State Court Administrator in writing.

SECTION 3. ORS 153.036 is amended to read:

153.036. (1) A violation proceeding may be commenced in:

- (a) The county in which the violation was committed; or
- (b) Any other county whose county seat is a shorter distance by road from the place where the violation was committed than is the county seat of the county in which the violation was committed.

(2)(a) If a violation proceeding is commenced in the county in which the violation was committed, the proceeding may be commenced in a circuit or justice court of the county or, if the violation was committed within a city, in the municipal court.

(b) If a violation proceeding is commenced in a county other than the county in which the violation was committed, the proceeding may be commenced:

- (A) In a circuit court;
- (B) Notwithstanding the provisions of ORS 51.050 that limit the jurisdiction of justice courts to offenses committed within the county, in a justice court; or
- (C) If the violation was committed within a city, in the municipal court of the city.

(3) A Central Violations Bureau established under section 1 of this 2019 Act may conduct violation proceedings for a violation commenced in circuit court notwithstanding the county in which the proceeding is commenced.

[3(a)] (4)(a) Except as otherwise provided in paragraph (b) of this subsection, if a violation proceeding is commenced in a county other than the county in which the violation was committed, at the request of the defendant the place of trial may be changed to the county in which the violation was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall be governed by the provisions of ORS 131.305 to 131.415 relating to change of venue.

(b) A defendant may not request that the place of trial be changed if the violation was committed within a city and the proceeding is commenced in the municipal court of the city.

[4] (5) Except as specifically provided in this section, venue in violation proceedings in circuit courts is governed by ORS 131.305 to 131.415.

SECTION 4. ORS 153.061 is amended to read:

153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3)(a) Except as provided in this section, a defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

[a] (A) The defendant may submit to the court a written or oral request for a trial.

[b] (B) The defendant may enter a plea of no contest by:

(i) Delivering to the court **or a Central Violations Bureau established under section 1 of this 2019 Act** the summons and a check or money order in the amount of the presumptive fine set forth in the summons[.]; **or**

(ii) **Appearing by electronic or telephonic means and entering the plea with a Central Violations Bureau established under section 1 of this 2019 Act.**

(b) The entry of a plea under [*the provisions of this*] paragraph (a)(B) of this subsection constitutes a waiver of trial and consent to the entry of a judgment forfeiting the presumptive fine.

(c) A no contest plea under this [*section*] subsection is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon receipt of the plea, the court may enter judgment against the defendant without taking further evidence.

(4) The court may require that a defendant requesting a trial under subsection (3) of this section deposit an amount equal to the presumptive fine established under ORS 153.019 and 153.020 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(6) If a defendant has entered a no contest plea in the manner provided in subsection (3) of this section, and the court determines that the presumptive fine is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(7) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220.

SECTION 5. ORS 153.800 is amended to read:

153.800. (1) Any court of this state may establish a Violations Bureau and designate the clerk or deputy clerk of the court or any other appropriate person to act as a violations clerk for the Violations Bureau. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(2) A violations clerk may exercise authority over any violation. A justice or municipal court establishing a Violations Bureau shall by order specify the violations that are subject to the authority of the violations clerk.

(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

(a) Written appearance, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(b) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.

(4)(a) Courts other than circuit courts shall establish schedules, within the limits prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the court establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid.

(b) The Chief Justice of the Supreme Court shall establish a uniform fine schedule for violations prosecuted in circuit courts. The schedule must specify the violations that are subject to the authority of the violations clerk.

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(5) Any person charged with a violation within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of no contest and waiver of trial, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(b) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(6) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance.

(7) A circuit court may use a Central Violations Bureau established under section 1 of this 2019 Act in addition to establishing and operating a Violations Bureau under this section, and may delegate to the State Court Administrator the authority to designate appropriate persons to act as violations clerks for the Central Violations Bureau.

SECTION 6. Section 1 of this 2019 Act and the amendments to ORS 8.120, 153.036, 153.061 and 153.800 by sections 2 to 5 of this 2019 Act apply to violations committed on or after the effective date of this 2019 Act.

SECTION 7. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by House February 14, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 25, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State