

House Bill 2107

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Human Services)

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 **as introduced**.

Provides that notice of garnishment related to overpayment of public benefits issued by Department of Human Services or Oregon Health Authority need not be signed by person issuing notice on behalf of department or authority.

Directs supervisory authority of county to provide specified information to Oregon Health Authority and Department of Human Services when defendant is committed to custody of supervisory authority.

A BILL FOR AN ACT

1
2 Relating to the overpayment of public benefits; amending ORS 18.855 and 137.924.

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

4 **SECTION 1.** ORS 18.855 is amended to read:

5 18.855. (1) Notwithstanding ORS 18.607, a notice of garnishment issued by a state agency need
6 not contain the name of a court whose authority is invoked.

7 (2) State agencies shall make such modifications as are necessary in the wage exemption cal-
8 culation form provided by ORS 18.840 if a notice of garnishment is issued for a debt due for a state
9 tax that is subject to the provisions of ORS 18.385 (6).

10 (3) Notwithstanding ORS 18.625, but subject to ORS 18.618 (2), a notice of garnishment issued
11 by a state agency acts to garnish all wages earned by the debtor by reason of services to the
12 garnishee until the full amount of the debt is paid or until the notice of garnishment is released by
13 the state agency or by court order. A notice of garnishment issued by a state agency must contain
14 language reasonably designed to notify the garnishee of the provisions of this subsection.

15 (4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a
16 state agency need not deliver a copy of the garnishee response to the clerk of the court, but must
17 deliver the original of the response to the state agency.

18 (5) Notwithstanding ORS 18.700, a challenge to a notice of garnishment issued by a state agency
19 must be delivered in person or by first class mail to the state agency within the time specified by
20 ORS 18.700 (2). Upon receiving a challenge, the state agency shall provide notice of the challenge
21 in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff
22 shall proceed as provided by ORS 18.760, except that upon determination of the challenge by an
23 administrative law judge, the sheriff shall proceed as directed by the judge. Within 14 days after
24 receiving the challenge, the state agency must either concede the challenge or give the person
25 making the challenge opportunity for hearing. If the person making the challenge requests a hearing,
26 the agency shall immediately refer the challenge to the Office of Administrative Hearings estab-
27 lished under ORS 183.605. The hearing shall be conducted as soon as possible. Notwithstanding ORS
28 183.315, the hearing shall be conducted as a contested case hearing. An issue that was decided in

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 a previous hearing, or for which the debtor was previously afforded an opportunity for hearing, may
 2 not be reconsidered.

3 (6) If a state agency is issuing a notice of garnishment for collection of a state tax, and the state
 4 agency has reason to believe that the debtor intends to leave the state or do any other act that
 5 would jeopardize collection of the tax, the state agency may issue a special notice of garnishment.
 6 Any earnings, as defined in ORS 18.375, garnished under a special notice of garnishment are not
 7 subject to a claim of exemption under ORS 18.385. A special notice of garnishment issued under this
 8 subsection garnishes only that property of the debtor that is in the garnishee's possession, control
 9 or custody at the time the special notice is delivered, including debts not yet due, and all wages
 10 owed by the garnishee to the debtor at the time the special notice is delivered. A special notice of
 11 garnishment does not act to garnish wages earned by the debtor by reason of services rendered to
 12 the garnishee after the delivery of the special notice of garnishment.

13 (7) A special notice of garnishment issued under subsection (6) of this section shall contain a
 14 statement indicating that it is a special notice of garnishment under subsection (6) of this section
 15 and a statement reflecting the provisions of subsection (6) of this section. Notwithstanding ORS
 16 18.854 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special
 17 notice of garnishment.

18 (8) Notwithstanding ORS 18.854 (1)(b), the Department of Revenue is not required to deliver a
 19 warrant or true copy of a warrant with the notice of garnishment when garnishing property of a
 20 debtor.

21 (9) Notwithstanding ORS 18.607 (4)[,]:

22 (a) A notice of garnishment issued by the Department of Revenue must include the name of the
 23 person issuing the notice on behalf of the department, but need not be signed by that person.

24 **(b) A notice of garnishment related to the overpayment of medical assistance as defined**
 25 **in ORS 414.025, or public assistance as defined in ORS 411.010, issued by the Department of**
 26 **Human Services or the Oregon Health Authority must include the name of the person issuing**
 27 **the notice on behalf of the department or authority, but need not be signed by that person.**

28 **SECTION 2.** ORS 137.924 is amended to read:

29 137.924. When a defendant is committed to the supervisory authority of the county pursuant to
 30 ORS 137.124, the supervisory authority shall forward the name, date of birth and Social Security
 31 number of the defendant to:

32 (1) The Director of the Employment Department for purposes of making a determination of el-
 33 igibility under ORS 657.155;

34 **(2) The Director of the Oregon Health Authority, or the director's designee, for the**
 35 **purposes of suspending any medical assistance as defined in ORS 414.025; and**

36 **(3) The Director of Human Services, or the director's designee, for the purposes of sus-**
 37 **pending any public assistance as defined in ORS 411.010.**