

**TESTIMONY ON HB 2176
FAIRNESS IN FINES AND FEES
BEFORE THE HOUSE JUDICIARY CIVIL LAW SUBCOMMITTEE
FEBRUARY 1, 2021**

**PRESENTED BY: ERIN M. PETTIGREW, ACCESS TO JUSTICE COUNSEL FOR
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Hon. Chair Power, Vice-Chair Wallan, Members of the Committee, my name is Erin M. Pettigrew, Access to Justice Counsel at the Oregon Judicial Department (OJD). I am here to testify in support of HB 2176, a bill brought before you at the request of Chief Justice Walters and OJD. Thank you for the opportunity.

This bill is driven by our goal to increase access to our courts by examining how we impose fines and fees, focusing our inquiry on equity and fairness. The system of fines and fees cannot be a one-size-fits-all approach, and courts must have the flexibility to take in account the financial struggle many are experiencing right now.

The branch is currently in the middle of a two-year Strategic Campaign designed to make critical improvements in our justice system, renewing our commitment to Oregonians and others who use our courts. This includes our pledge to examine the impacts of fines and fees, develop best practices for their imposition, and to take affirmative steps to ensure that they do not create unnecessary barriers or disproportionate outcomes. We also hope that our work in this area will increase public trust and confidence in government, and faith in our justice system.

HB 2176 furthers that initiative by eliminating a mandatory \$50 fee for establishing a payment plan and by granting courts the ability the compromise fines and fees in a judgment that also includes restitution or a compensatory fine amount, leaving those sums intact and potentially increasing recovery for victims.

Eliminating the \$50 Minimum Payment Plan Fee

Under current law, if a person cannot afford to immediately pay a \$75 fine, the amount they must pay through a payment plan increases to \$125 after imposing the mandatory \$50 fee. For some, that additional financial burden is significant. There are instances when people simply need a little extra time and removing the mandatory \$50 fee will allow people to pay what they owe over time without incurring fees.

We believe this change will not substantially change the overall amount of court debt collected but want to acknowledge that there may be a shift in the timing of collection because we will be giving people more time to pay. Other states report some increase in collections when ability to pay is considered. We will be watching this closely.

The payment plan fee statute only applies to state courts. It will not affect municipal or justice court collections.

Flexibility to Reduce Non-Restitution Financial Obligations in Judgments

Section 2 of HB 2176 is an important tool for OJD to manage court debt. Currently, the court can compromise – reduce or adjust - fines and fees in a judgment, but only if that judgment does not include restitution or a compensatory fine amount. The requested change would allow compromise of those fines and fees, even in judgments with restitution or compensatory fine obligation. Those restitution or compensatory fine obligations would remain intact under HB 2176.

While we cannot say with 100% certainty that this will greatly increase restitution and compensatory fine collections, it will at least give courts an opportunity to ensure that every dollar paid goes to those obligations, rather than being split with fines and fees.

COVID-19 Response

This bill is just one part of OJD’s broader efforts to reduce the burden of fines and fees on individuals and families struggling to make ends meet. Since the start of the COVID-19 pandemic, Oregon’s state courts have reduced the burden of outstanding court fines and fees during the state of emergency by suspending and modifying collections fees and practices. Chief Justice Walters has issued orders encouraging the waiver and suspension of fines, fees, and costs, while encouraging courts to carefully consider the impact of fines and fees prior to imposition.

In March 2020, OJD took the following actions on all court-imposed debt:

- Suspended the imposition of late fees on judgments (accounts) over 30-days old
- Ceased ordering driver license suspensions for failure to pay fine within 30 days (made permanent by HB 4065 in August 2020); FTA suspensions are still required by ORS 809.220
- Ceased sending delinquency notices when judgments (accounts) remain unpaid for more than 40 days
- Ceased imposing collection fees and referring delinquent accounts to Department of Revenue (DOR) and Private Collection Firms (PCFs) from March 2020 – February 2021
- Stopped issuing new garnishments on delinquent accounts already assigned to DOR/PCFs for collection from March 2020 – November 2020

We thank the Oregon Law Center, Youth Rights and Justice, Oregon Criminal Defense Lawyers Association, the Oregon State Bar and others for their support. You can find our one-pager summary of the bill in the testimony tab of the bill materials. I would be glad to answer questions.