

DRAFT

SUMMARY

Digest: The Act allows a deputy of a county clerk to perform weddings.
(Flesch Readability Score: 67.7).

Authorizes a deputy of a county clerk to solemnize marriages.

A BILL FOR AN ACT

Relating to solemnization of marriage; amending ORS 106.120 and 205.320.

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

SECTION 1. ORS 106.120 is amended to read:

106.120. (1) As used in this section:

(a) “Judicial officer” means:

(A) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not limited to a judge of a municipal court and a justice of the peace.

(B) An active judge of a federal court.

(C) An active United States magistrate judge.

(b) “Secular organization” means an organization that occupies a place in the lives of the organization’s members parallel to that filled by a church or particular religious authority.

(2) Marriages may be solemnized by:

(a) A judicial officer;

(b) A county clerk **or deputy of the county clerk;**

(c) Religious congregations or organizations as indicated in ORS 106.150 (2);

(d) A clergyperson of any religious congregation or organization who is

1 authorized by the religious congregation or organization to solemnize mar-
2 riages;

3 (e) Secular organizations as indicated in ORS 106.150 (2); or

4 (f) A celebrant or officiant of any secular organization described in par-
5 agraph (e) of this subsection who is authorized by the secular organization
6 to solemnize marriages.

7 (3) A person authorized to solemnize marriages under subsection (2) of
8 this section may solemnize a marriage anywhere in this state.

9 (4)(a) When a marriage is solemnized by a tax, appellate or circuit judge
10 of this state, the clerk of the court or the county clerk shall collect a fee
11 of \$117 and deposit the fee in the Judicial Department Operating Account
12 established in ORS 1.009.

13 (b) When a marriage is solemnized by a county clerk **or a deputy of the**
14 **county clerk**, the county clerk **or the deputy of the county clerk** shall
15 collect a fee of \$117, as provided in ORS 205.320.

16 (c) The fee described in this subsection may be collected only if:

17 (A) The marriage is solemnized during normal working hours, excluding
18 holidays;

19 (B) The marriage is solemnized in court facilities or a county clerk's of-
20 fice; or

21 (C) More than a minimal amount of staff time or other court or county
22 clerk's office resources are used in connection with the solemnization.

23 (d) The Chief Justice of the Supreme Court or the county clerk may es-
24 tablish a written procedure for waiver of the fee required under this sub-
25 section in exigent circumstances, including but not limited to indigency of
26 the parties to the marriage.

27 (5) In addition to any fee collected under subsection (4) of this section,
28 a judicial officer of this state [*and*], a county clerk **or a deputy of a county**
29 **clerk** may charge and accept an agreed upon personal payment not to exceed
30 \$100 plus actual costs for the solemnization of a marriage if that
31 solemnization is performed:

1 (a) At a place other than the courthouse where the judicial officer [or],
2 county clerk **or deputy of the county clerk** serves; or

3 (b) Outside of the **normal working hours of the** judicial [*officer's or*
4 *county clerk's normal working hours*] **officer, county clerk or deputy of the**
5 **county clerk.**

6 (6) The charging and accepting of a personal payment by a judicial officer
7 of this state [or], a county clerk **or a deputy of a county clerk** under
8 subsection (5) of this section does not constitute a violation of any of the
9 provisions of ORS chapter 244.

10 (7) The amount of actual costs charged by a judicial officer of this state
11 [or], a county clerk **or a deputy of a county clerk** under subsection (5) of
12 this section may not exceed:

13 (a) Actual expenses for food and lodging as verified by receipts.

14 (b) If travel is made by personal vehicle, the actual number of round-trip
15 miles from the judicial officer's [or], county clerk's **or county clerk's**
16 **deputy's** home or office, whichever is greater, compensated at the rate of
17 reimbursement then provided by the State of Oregon to its employees or, if
18 travel is made by a commercial carrier, reimbursement shall be made of the
19 actual costs thereof, verified by receipts.

20 (8) A judicial officer of this state [or], a county clerk **or a deputy of a**
21 **county clerk** shall maintain records of the amount of personal payments
22 received for performing marriages, of actual costs and the supporting doc-
23 umentation related thereto for a period of four years.

24 (9) The parties to a marriage solemnized by a tax, appellate or circuit
25 judge of this state shall show to the judge proof of payment of the fee re-
26 quired under subsection (4)(a) of this section before solemnization. Except
27 as provided in subsection (4)(d) of this section, the judge may not solemnize
28 a marriage without proof of payment of the fee.

29 **SECTION 2.** ORS 205.320 is amended to read:

30 205.320. (1) In every county there shall be charged and collected in ad-
31 vance by the county clerk, for the benefit of the county, the following fees,

1 and no more, for the following purposes and services:

2 (a) For filing and making entry when required by law of any instrument
3 required or permitted by law to be filed, when it is not recorded, \$5 for each
4 page.

5 (b) For filing and making entry of the assignment or satisfaction of any
6 filed, but not recorded, instrument, \$5 for each page.

7 (c) For each official certificate, \$3.75.

8 (d)(A) For recording any instrument required or permitted by law to be
9 recorded, \$5 for each page, but the minimum fee shall not be less than \$5.
10 As used in this subparagraph, “page” means one side of a sheet 14 inches,
11 or less, long and 8-1/2 inches, or less, wide.

12 (B) For supplying to private parties copies of records or files, including
13 by electronic delivery of images, not more than \$3.75 for locating a record
14 requested by the party and 25 cents for each page. As used in this subpara-
15 graph, “page” means one side of a sheet 14 inches, or less, long and 8-1/2
16 inches, or less, wide.

17 (C) For each official certificate, \$3.75.

18 (e) For taking an affidavit for and making and issuing a marriage license
19 and registering the return of the license, or for taking an affidavit for and
20 registering a Declaration of Domestic Partnership, \$25.

21 (f) For solemnizing a marriage under ORS 106.120, \$117. This paragraph
22 does not require that the county clerk **or deputy of the county clerk**
23 charge a fee for solemnizing a marriage after normal working hours or on
24 Saturdays or legal holidays. This paragraph does not prohibit a county clerk
25 **or a deputy of the county clerk** from charging and accepting a personal
26 payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

27 (g) For taking and certifying acknowledgment or proof of execution of any
28 instrument, the fee established in the schedule adopted by the Secretary of
29 State under ORS 194.400.

30 (h) For issuing any license required by law, other than a marriage or li-
31 quor license, and for which no fee is otherwise provided by law, \$5.

1 (i) For any service the clerk may be required or authorized to perform
2 and for which no fee is provided by law, such fees as may favorably compare
3 with those established by this section for similar services and as may be es-
4 tablished by order or rule of the county court or board of county commis-
5 sioners.

6 (j) For recording any instrument under ORS 205.130 (2), as required by
7 ordinance pursuant to ORS 203.148.

8 (k) In addition to and not in lieu of the fees charged under paragraph (d)
9 of this subsection, for each additional municipal assessment lien recorded
10 under ORS 93.643, \$5.

11 (L) In addition to and not in lieu of the fees charged under paragraph (d)
12 of this subsection, for each additional assignment, release or satisfaction of
13 any recorded instrument, \$5.

14 (m) In addition to and not in lieu of the fees charged under paragraph (d)
15 of this subsection, for each additional transaction described under ORS
16 205.236, \$5.

17 (n) In addition to and not in lieu of the fees charged under paragraph (d)
18 of this subsection, for each additional lien recorded under ORS 311.675, \$5.

19 (o) For preparing and recording the certificate under ORS 517.280, \$20 or
20 such other fee that is established by the county governing body.

21 (p) In addition to and not in lieu of the fees charged under paragraph (d)
22 of this subsection, for each additional claim listed on an affidavit of annual
23 compliance under ORS 517.210, \$5.

24 (q) In addition to and not in lieu of the fees charged under paragraph (d)
25 of this subsection, for each additional name listed on a cooperative contract
26 under ORS 62.360 (2) or for recording the termination of a cooperative con-
27 tract under ORS 62.360 (4), \$5.

28 (2) Notwithstanding any other law, five percent of any fee or tax that is
29 not collected for the benefit of the county clerk shall be deducted from the
30 fee or tax. The moneys deducted shall be expended for acquiring storage and
31 retrieval systems, payment of expenses incurred in collecting the fee or tax

1 and maintaining and restoring records as authorized by the county clerk.
2 Moneys collected under this subsection shall be deposited in a county clerk
3 records fund established by the county governing body. No moneys shall be
4 deducted under this subsection from:

5 (a) Fees collected for the Domestic Violence Fund under ORS 106.045.

6 (b) Fees collected for conciliation services under ORS 107.615.

7 (c) Real estate transfer taxes enacted prior to January 1, 1998.

8 (d) Fees collected under ORS 205.323 for the Oregon Land Information
9 System Fund.

10 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related pro-
11 grams listed in ORS 294.187 (2)(b).

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