

HOUSE AMENDMENTS TO HOUSE BILL 2212

By COMMITTEE ON JUDICIARY

May 25

1 On page 1 of the printed bill, line 2, after the first semicolon delete the rest of the line and in-
2 sert “amending ORS 18.052, 25.020 and 192.502.”.

3 Delete lines 4 through 31 and delete page 2 and insert:

4 “**SECTION 1.** ORS 18.052 is amended to read:

5 “18.052. (1) A judge rendering a judgment shall file with the court administrator a judgment
6 document that incorporates the judgment. The judge must sign the judgment document unless the
7 court administrator is authorized by law to sign the judgment document. Before signing a judgment
8 document, the judge shall ensure that all requirements imposed by law for entry of the judgment
9 have been fulfilled, including the making of any written findings of fact or conclusions of law. If a
10 proposed judgment document submitted under ORS 18.035 does not comply with the requirements
11 of ORS 18.038, 18.042 and 18.048, the judge may not sign the judgment document. **If a proposed**
12 **judgment document submitted under ORS 18.035 establishes paternity or includes a provision**
13 **concerning support, but does not comply with the requirements of ORS 25.020 (8), the judge**
14 **may not sign the judgment document.** Unless the judgment is exempt under ORS 18.038 (2), the
15 judge shall ensure that the title of the judgment document indicates whether the judgment is a
16 limited judgment, general judgment or supplemental judgment. If the judgment is a limited judgment
17 rendered under the provisions of ORCP 67 B, the judge must determine that there is no just reason
18 for delay, but the judgment document need not reflect that determination if the title of the judgment
19 document indicates that the judgment is a limited judgment.

20 “(2) A court administrator *[that]* **who** signs a judgment under authority granted by law has the
21 same duties as a judge under the provisions of this section.

22 “(3) This section does not apply to justice courts, municipal courts or county courts performing
23 judicial functions.

24 “**SECTION 2.** ORS 25.020 is amended to read:

25 “25.020. (1) Support payments for or on behalf of any person, ordered, registered or filed under
26 ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030,
27 shall be made to the Department of Justice, as the state disbursement unit:

28 “(a) During periods for which support is assigned under ORS 418.032, 418.042, 419B.406 or
29 419C.597;

30 “(b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
31 person who receives or has a right to receive support payments on the person’s own behalf or on
32 behalf of another person;

33 “(c) After the assignment of support terminates for as long as amounts assigned remain owing;

34 “(d) For any period during which support enforcement services are provided under ORS 25.080;

35 “(e) When ordered by the court under ORS 419B.400;

1 “(f) When a support order that is entered or modified on or after January 1, 1994, includes a
2 provision requiring the obligor to pay support by income withholding; or

3 “(g) When ordered by the court under any other applicable provision of law.

4 “(2) The Department of Justice shall disburse payments, after lawful deduction of fees and in
5 accordance with applicable statutes and rules, to those persons and entities that are lawfully enti-
6 tled to receive such payments.

7 “(3)(a) When the administrator is providing support enforcement services under ORS 25.080, the
8 obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for as-
9 sistance in collecting child support payments.

10 “(b) The Department of Justice:

11 “(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection
12 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection
13 to the department;

14 “(B) May reinstate disbursements to the obligee if:

15 “(i) The obligee requests that disbursements be made directly to the obligee;

16 “(ii) The collection agency violates any provision of this subsection; or

17 “(iii) The Department of Consumer and Business Services notifies the Department of Justice that
18 the collection agency is in violation of the rules adopted under ORS 697.086;

19 “(C) Shall credit the obligor’s account for the full amount of each support payment received by
20 the department and disbursed to the collection agency; and

21 “(D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall in-
22 clude a notice to the obligee printed in type size equal to at least 12-point type that the obligee may
23 be eligible for support enforcement services from the department or the district attorney without
24 paying the interest or fee that is typically charged by a collection agency.

25 “(c) The obligee shall:

26 “(A) Provide to the department, on a form approved by the department, information about the
27 agreement with the collection agency; and

28 “(B) Promptly notify the department when the agreement is terminated.

29 “(d) The collection agency:

30 “(A) May provide investigative and location services to the obligee and disclose relevant infor-
31 mation from those services to the administrator for purposes of providing support enforcement ser-
32 vices under ORS 25.080;

33 “(B) May not charge interest or a fee for its services exceeding 29 percent of each support
34 payment received unless the collection agency, if allowed by the terms of the agreement between
35 the collection agency and the obligee, hires an attorney to perform legal services on behalf of the
36 obligee;

37 “(C) May not initiate, without written authorization from the administrator, any enforcement
38 action relating to support payments on which support enforcement services are provided by the ad-
39 ministrator under ORS 25.080; and

40 “(D) Shall include in the agreement with the obligee a notice printed in type size equal to at
41 least 12-point type that provides information on the fees, penalties, termination and duration of the
42 agreement.

43 “(e) The administrator may use information disclosed by the collection agency to provide sup-
44 port enforcement services under ORS 25.080.

45 “(4) The Department of Justice may immediately transmit payments received from any obligor

1 who has not previously tendered any payment by a check or instrument that was not paid or was
2 dishonored, to the obligee, without waiting for payment or clearance of the check or instrument
3 received.

4 “(5) The Department of Justice shall notify each obligor and obligee by mail when support pay-
5 ments shall be made to the department and when the obligation to make payments in this manner
6 shall cease.

7 “(6)(a) The administrator shall provide information about a child support account directly to a
8 party to the support order regardless of whether the party is represented by an attorney. As used
9 in this subsection, ‘information about a child support account’ means the:

10 “(A) Date of issuance of the support order.

11 “(B) Amount of the support order.

12 “(C) Dates and amounts of payments.

13 “(D) Dates and amounts of disbursements.

14 “(E) Payee of any disbursements.

15 “(F) Amount of any arrearage.

16 “(G) Source of any collection.

17 “(b) Nothing in this subsection limits the information the administrator may provide by law to
18 a party who is not represented by an attorney.

19 “(7) Any pleading for the entry or modification of a support order must contain a statement that
20 payment of support under a new or modified order will be by income withholding unless an excep-
21 tion to payment by income withholding is granted under ORS 25.396.

22 “(8)(a) Except as provided in [*paragraph*] **paragraphs (d) and (e)** of this subsection, a judgment
23 or order establishing paternity or including a provision concerning support [*shall*] **must** contain:

24 “(A) The residence, mailing or contact address, Social Security number, telephone number and
25 driver license number of each party [*and*];

26 “(B) The name, address and telephone number of all employers of each party;

27 “(C) **The names and dates of birth of the joint children of the parties; and**

28 “(D) **Any other information required by rule adopted by the Chief Justice of the Supreme**
29 **Court under ORS 1.002.** [*Such a judgment or order issued in a proceeding under ORS 107.085 or*
30 *107.485 shall contain the Social Security number of each party in the manner established under ORS*
31 *107.840.*]

32 “(b) The judgment or order shall also include notice that the obligor and obligee:

33 “(A) Must inform the court and the administrator in writing of any change in the information
34 required by this subsection within 10 days after [*such*] **the** change; and

35 “(B) May request that the administrator review the amount of support ordered after two years
36 or at any time upon a substantial change of circumstances.

37 “(c) The administrator may require of the parties any additional information that is necessary
38 for the provision of support enforcement services under ORS 25.080.

39 “(d)(A) Upon a finding, [*that*] **which** may be made ex parte, that the health, safety or liberty of
40 a party or child would unreasonably be put at risk by the disclosure of information specified in this
41 subsection or by the disclosure of other information concerning a child or party to a paternity or
42 support proceeding or if an existing order so requires, a court or administrator or administrative
43 law judge, when the proceeding is administrative, shall order that the information not be contained
44 in any document provided to another party or otherwise disclosed to a party other than the state.

45 “(B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-

1 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
2 support enforcement services under ORS 25.080.

3 **“(e) The Chief Justice of the Supreme Court may, in consultation with the Department
4 of Justice, adopt rules under ORS 1.002 to designate information specified in this subsection
5 as confidential and require that the information be submitted through an alternate procedure
6 to ensure that the information is exempt from public disclosure under ORS 192.502.**

7 “(9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child
8 support enforcement action, the court or administrator, upon a showing of diligent effort made to
9 locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the
10 last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

11 “(b) Service of an order directing an obligor to appear in a contempt proceeding is subject to
12 ORS 33.015 to 33.155.

13 “(10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
14 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
15 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
16 county clerk or the Department of Human Services.

17 “(11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be
18 given for payments not made to the Department of Justice as required under subsection (1) of this
19 section.

20 “(12) The Department of Justice shall give credit for payments not made to the department:

21 “(a) When payments are not assigned to this or another state and the obligee and obligor agree
22 in writing that specific payments were made and should be credited;

23 “(b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
24 written statements that specific payments were made, canceled checks or other substantial evidence
25 is presented to corroborate their statements and the obligee has been given prior written notice of
26 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
27 support;

28 “(c) When payments are assigned to another state and that state verifies that payments not paid
29 to the department were received by the other state; or

30 “(d) As provided by rule adopted under ORS 180.345.

31 “(13) An obligor may apply to the Department of Justice for credit for payments made other
32 than to the Department of Justice. If the obligee or other state does not provide the agreement,
33 sworn statement or verification required by subsection (12) of this section, credit may be given
34 pursuant to order of an administrative law judge assigned from the Office of Administrative
35 Hearings [*established under ORS 183.605*] after notice and opportunity to object and be heard are
36 given to both obligor and obligee. Notice shall be served upon the obligee as provided by ORS
37 25.085. Notice to the obligor may be by regular mail at the address provided in the application for
38 credit. A hearing conducted under this subsection is a contested case hearing and ORS 183.413 to
39 183.470 apply. Any party may seek a hearing de novo in the circuit court.

40 “(14) Nothing in this section precludes the Department of Justice from giving credit for pay-
41 ments not made to the department when there has been a judicially determined credit or satisfaction
42 or when there has been a satisfaction of support executed by the person to whom support is owed.

43 “(15) The Department of Justice shall adopt rules that:

44 “(a) Direct how support payments that are made through the department are to be applied and
45 distributed; and

1 “(b) Are consistent with federal regulations.

2 “**SECTION 3.** ORS 192.502 is amended to read:

3 “192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

4 “(1) Communications within a public body or between public bodies of an advisory nature to the
5 extent that they cover other than purely factual materials and are preliminary to any final agency
6 determination of policy or action. This exemption shall not apply unless the public body shows that
7 in the particular instance the public interest in encouraging frank communication between officials
8 and employees of public bodies clearly outweighs the public interest in disclosure.

9 “(2) Information of a personal nature such as but not limited to that kept in a personal, medical
10 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
11 public interest by clear and convincing evidence requires disclosure in the particular instance. The
12 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
13 tute an unreasonable invasion of privacy.

14 “(3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
15 telephone numbers contained in personnel records maintained by the public body that is the em-
16 ployer or the recipient of volunteer services. This exemption:

17 “(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or
18 volunteers who are elected officials, except that a judge or district attorney subject to election may
19 seek to exempt the judge’s or district attorney’s address or telephone number, or both, under the
20 terms of ORS 192.445;

21 “(b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
22 shows by clear and convincing evidence that the public interest requires disclosure in a particular
23 instance;

24 “(c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a
25 professional education association of which the substitute teacher may be a member; and

26 “(d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

27 “(4) Information submitted to a public body in confidence and not otherwise required by law to
28 be submitted, where such information should reasonably be considered confidential, the public body
29 has obliged itself in good faith not to disclose the information, and when the public interest would
30 suffer by the disclosure.

31 “(5) Information or records of the Department of Corrections, including the State Board of
32 Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabili-
33 tation of a person in custody of the department or substantially prejudice or prevent the carrying
34 out of the functions of the department, if the public interest in confidentiality clearly outweighs the
35 public interest in disclosure.

36 “(6) Records, reports and other information received or compiled by the Director of the De-
37 partment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
38 otherwise required by law to be made public, to the extent that the interests of lending institutions,
39 their officers, employees and customers in preserving the confidentiality of such information out-
40 weighs the public interest in disclosure.

41 “(7) Reports made to or filed with the court under ORS 137.077 or 137.530.

42 “(8) Any public records or information the disclosure of which is prohibited by federal law or
43 regulations.

44 “(9) Public records or information the disclosure of which is prohibited or restricted or other-
45 wise made confidential or privileged under Oregon law.

1 “(10) Public records or information described in this section, furnished by the public body ori-
2 ginally compiling, preparing or receiving them to any other public officer or public body in con-
3 nection with performance of the duties of the recipient, if the considerations originally giving rise
4 to the confidential or exempt nature of the public records or information remain applicable.

5 “(11) Records of the Energy Facility Siting Council concerning the review or approval of secu-
6 rity programs pursuant to ORS 469.530.

7 “(12) Employee and retiree address, telephone number and other nonfinancial membership re-
8 cords and employee financial records maintained by the Public Employees Retirement System pur-
9 suant to ORS chapters 238 and 238A.

10 “(13) Records submitted by private persons or businesses to the State Treasurer or the Oregon
11 Investment Council relating to proposed acquisition, exchange or liquidation of public investments
12 under ORS chapter 293 may be treated as exempt from disclosure when and only to the extent that
13 disclosure of such records reasonably may be expected to substantially limit the ability of the
14 Oregon Investment Council to effectively compete or negotiate for, solicit or conclude such trans-
15 actions. Records which relate to concluded transactions are not subject to this exemption.

16 “(14) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning
17 the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated
18 as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

19 “(15) Reports of unclaimed property filed by the holders of such property to the extent permitted
20 by ORS 98.352.

21 “(16) The following records, communications and information submitted to the Oregon Economic
22 and Community Development Commission, the Economic and Community Development Department,
23 the State Department of Agriculture, the Oregon Growth Account Board, the Port of Portland or
24 other ports, as defined in ORS 777.005, by applicants for investment funds, loans or services includ-
25 ing, but not limited to, those described in ORS 285A.224:

26 “(a) Personal financial statements.

27 “(b) Financial statements of applicants.

28 “(c) Customer lists.

29 “(d) Information of an applicant pertaining to litigation to which the applicant is a party if the
30 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
31 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
32 concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery
33 or deposition statutes to a party to litigation or potential litigation.

34 “(e) Production, sales and cost data.

35 “(f) Marketing strategy information that relates to applicant’s plan to address specific markets
36 and applicant’s strategy regarding specific competitors.

37 “(17) Records, reports or returns submitted by private concerns or enterprises required by law
38 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
39 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
40 information is in a form which would permit identification of the individual concern or enterprise.
41 Nothing in this subsection shall limit the use which can be made of such information for regulatory
42 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
43 payer of the delinquency immediately by certified mail. However, in the event that the payment or
44 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
45 public body shall disclose, upon the request of any person, the following information:

1 “(a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
2 payment or delivery of the taxes.

3 “(b) The period for which the taxes are delinquent.

4 “(c) The actual, or estimated, amount of the delinquency.

5 “(18) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
6 pointed counsel, and all information supplied to the court from whatever source for the purpose of
7 verifying the financial eligibility of a person pursuant to ORS 151.485.

8 “(19) Workers’ compensation claim records of the Department of Consumer and Business Ser-
9 vices, except in accordance with rules adopted by the Director of the Department of Consumer and
10 Business Services, in any of the following circumstances:

11 “(a) When necessary for insurers, self-insured employers and third party claim administrators to
12 process workers’ compensation claims.

13 “(b) When necessary for the director, other governmental agencies of this state or the United
14 States to carry out their duties, functions or powers.

15 “(c) When the disclosure is made in such a manner that the disclosed information cannot be used
16 to identify any worker who is the subject of a claim.

17 “(d) When a worker or the worker’s representative requests review of the worker’s claim record.

18 “(20) Sensitive business records or financial or commercial information of the Oregon Health
19 and Science University that is not customarily provided to business competitors.

20 “(21) Records of Oregon Health and Science University regarding candidates for the position of
21 president of the university.

22 “(22) The records of a library, including circulation records, showing use of specific library
23 material by a named person or consisting of the name of a library patron together with the address
24 or telephone number, or both, of the patron.

25 “(23) The following records, communications and information obtained by the Housing and
26 Community Services Department in connection with the department’s monitoring or administration
27 of financial assistance or of housing or other developments:

28 “(a) Personal and corporate financial statements and information, including tax returns.

29 “(b) Credit reports.

30 “(c) Project appraisals.

31 “(d) Market studies and analyses.

32 “(e) Articles of incorporation, partnership agreements and operating agreements.

33 “(f) Commitment letters.

34 “(g) Project pro forma statements.

35 “(h) Project cost certifications and cost data.

36 “(i) Audits.

37 “(j) Project tenant correspondence.

38 “(k) Personal information about a tenant.

39 “(L) Housing assistance payments.

40 “(24) Raster geographic information system (GIS) digital databases, provided by private
41 forestland owners or their representatives, voluntarily and in confidence to the State Forestry De-
42 partment, that is not otherwise required by law to be submitted.

43 “(25) Sensitive business, commercial or financial information furnished to or developed by a
44 public body engaged in the business of providing electricity or electricity services, if the information
45 is directly related to a transaction described in ORS 261.348, or if the information is directly related

1 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
2 disclosure of the information would cause a competitive disadvantage for the public body or its re-
3 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
4 velopment or review of generally applicable rate schedules.

5 “(26) Sensitive business, commercial or financial information furnished to or developed by the
6 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
7 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
8 and disclosure of the information would cause a competitive disadvantage for the Klamath
9 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
10 ment or review of generally applicable rate schedules.

11 “(27) Personally identifiable information about customers of a municipal electric utility or a
12 people’s utility district. The utility or district may, however, release such information to a third
13 party if the customer consents in writing or electronically, if the disclosure is necessary to render
14 utility or district services to the customer, or if the disclosure is required pursuant to a court order.
15 The utility or district may charge as appropriate for the costs of providing such information. The
16 utility or district may make customer records available to third party credit agencies on a regular
17 basis in connection with the establishment and management of customer accounts or in the event
18 such accounts are delinquent.

19 “(28) A record of the street and number of an employee’s address submitted to a special district
20 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

21 “(29) Sensitive business records, capital development plans or financial or commercial informa-
22 tion of Oregon Corrections Enterprises that is not customarily provided to business competitors.

23 “(30) Documents, materials or other information submitted to the Director of the Department
24 of Consumer and Business Services in confidence by a state, federal, foreign or international regu-
25 latory or law enforcement agency or by the National Association of Insurance Commissioners, its
26 affiliates or subsidiaries under ORS 646.380 to 646.396, 697.005 to 697.095, 697.602 to 697.842, 705.137,
27 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 722, 723, 725 or 726, the Bank Act or the
28 Insurance Code when:

29 “(a) The document, material or other information is received upon notice or with an under-
30 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
31 the document, material or other information; and

32 “(b) The director has obligated the Department of Consumer and Business Services not to dis-
33 close the document, material or other information.

34 “(31) A county elections security plan developed and filed under ORS 254.074.

35 “(32) Information about review or approval of programs relating to the security of:

36 “(a) Generation, storage or conveyance of:

37 “(A) Electricity;

38 “(B) Gas in liquefied or gaseous form;

39 “(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

40 “(D) Petroleum products;

41 “(E) Sewage; or

42 “(F) Water.

43 “(b) Telecommunication systems, including cellular, wireless or radio systems.

44 “(c) Data transmissions by whatever means provided.

45 “(33) **The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme**

1 **Court designates the information as confidential by rule under ORS 1.002.”**
2 _____