

A-Engrossed
House Bill 2212

Ordered by the House May 25
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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.

[Requires person that enters into contract with independent contractor to report creation of contract to Division of Child Support.]

Requires that judgment or order establishing paternity or including provision concerning support contain names and dates of birth of joint children of parties and any other information required by rule adopted by Chief Justice of Supreme Court.

Authorizes Chief Justice to adopt rules relating to confidentiality of information contained in judgment or order establishing paternity or including provision concerning support.

A BILL FOR AN ACT

Relating to child support; amending ORS 18.052, 25.020 and 192.502.

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

SECTION 1. ORS 18.052 is amended to read:

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

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

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

SECTION 2. ORS 25.020 is amended to read:

25.020. (1) Support payments for or on behalf of any person, ordered, registered or filed under

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 ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030,
2 shall be made to the Department of Justice, as the state disbursement unit:

3 (a) During periods for which support is assigned under ORS 418.032, 418.042, 419B.406 or
4 419C.597;

5 (b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
6 person who receives or has a right to receive support payments on the person's own behalf or on
7 behalf of another person;

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

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

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

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

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

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

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

20 (b) The Department of Justice:

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

24 (B) May reinstate disbursements to the obligee if:

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

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

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

29 (C) Shall credit the obligor's account for the full amount of each support payment received by
30 the department and disbursed to the collection agency; and

31 (D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include
32 a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be
33 eligible for support enforcement services from the department or the district attorney without pay-
34 ing the interest or fee that is typically charged by a collection agency.

35 (c) The obligee shall:

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

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

39 (d) The collection agency:

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

43 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-
44 ment received unless the collection agency, if allowed by the terms of the agreement between the
45 collection agency and the obligee, hires an attorney to perform legal services on behalf of the

1 obligee;

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

5 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
6 12-point type that provides information on the fees, penalties, termination and duration of the
7 agreement.

8 (e) The administrator may use information disclosed by the collection agency to provide support
9 enforcement services under ORS 25.080.

10 (4) The Department of Justice may immediately transmit payments received from any obligor
11 who has not previously tendered any payment by a check or instrument that was not paid or was
12 dishonored, to the obligee, without waiting for payment or clearance of the check or instrument
13 received.

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

17 (6)(a) The administrator shall provide information about a child support account directly to a
18 party to the support order regardless of whether the party is represented by an attorney. As used
19 in this subsection, "information about a child support account" means the:

20 (A) Date of issuance of the support order.

21 (B) Amount of the support order.

22 (C) Dates and amounts of payments.

23 (D) Dates and amounts of disbursements.

24 (E) Payee of any disbursements.

25 (F) Amount of any arrearage.

26 (G) Source of any collection.

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

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

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

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

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

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

38 (D) **Any other information required by rule adopted by the Chief Justice of the Supreme**
39 **Court under ORS 1.002.** [*Such a judgment or order issued in a proceeding under ORS 107.085 or*
40 *107.485 shall contain the Social Security number of each party in the manner established under ORS*
41 *107.840.*]

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

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

45 (B) May request that the administrator review the amount of support ordered after two years

1 or at any time upon a substantial change of circumstances.

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

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

10 (B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-
11 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
12 support enforcement services under ORS 25.080.

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

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

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

23 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
24 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
25 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
26 county clerk or the Department of Human Services.

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

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

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

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

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

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

41 (13) An obligor may apply to the Department of Justice for credit for payments made other than
42 to the Department of Justice. If the obligee or other state does not provide the agreement, sworn
43 statement or verification required by subsection (12) of this section, credit may be given pursuant
44 to order of an administrative law judge assigned from the Office of Administrative Hearings [*estab-*
45 *lished under ORS 183.605*] after notice and opportunity to object and be heard are given to both

1 obligor and obligee. Notice shall be served upon the obligee as provided by ORS 25.085. Notice to
2 the obligor may be by regular mail at the address provided in the application for credit. A hearing
3 conducted under this subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any
4 party may seek a hearing de novo in the circuit court.

5 (14) Nothing in this section precludes the Department of Justice from giving credit for payments
6 not made to the department when there has been a judicially determined credit or satisfaction or
7 when there has been a satisfaction of support executed by the person to whom support is owed.

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

9 (a) Direct how support payments that are made through the department are to be applied and
10 distributed; and

11 (b) Are consistent with federal regulations.

12 **SECTION 3.** ORS 192.502 is amended to read:

13 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

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

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

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

27 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
28 unteers who are elected officials, except that a judge or district attorney subject to election may
29 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
30 terms of ORS 192.445;

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

34 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
35 fessional education association of which the substitute teacher may be a member; and

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

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

41 (5) Information or records of the Department of Corrections, including the State Board of Parole
42 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
43 a person in custody of the department or substantially prejudice or prevent the carrying out of the
44 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
45 terest in disclosure.

1 (6) Records, reports and other information received or compiled by the Director of the Depart-
2 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
3 otherwise required by law to be made public, to the extent that the interests of lending institutions,
4 their officers, employees and customers in preserving the confidentiality of such information out-
5 weighs the public interest in disclosure.

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

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

9 (9) Public records or information the disclosure of which is prohibited or restricted or otherwise
10 made confidential or privileged under Oregon law.

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

15 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
16 programs pursuant to ORS 469.530.

17 (12) Employee and retiree address, telephone number and other nonfinancial membership records
18 and employee financial records maintained by the Public Employees Retirement System pursuant to
19 ORS chapters 238 and 238A.

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

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

29 (15) Reports of unclaimed property filed by the holders of such property to the extent permitted
30 by ORS 98.352.

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

36 (a) Personal financial statements.

37 (b) Financial statements of applicants.

38 (c) Customer lists.

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

44 (e) Production, sales and cost data.

45 (f) Marketing strategy information that relates to applicant's plan to address specific markets

1 and applicant's strategy regarding specific competitors.

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

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

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

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

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

18 (19) Workers' compensation claim records of the Department of Consumer and Business Services,
19 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
20 ness Services, in any of the following circumstances:

21 (a) When necessary for insurers, self-insured employers and third party claim administrators to
22 process workers' compensation claims.

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

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

27 (d) When a worker or the worker's representative requests review of the worker's claim record.

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

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

32 (22) The records of a library, including circulation records, showing use of specific library ma-
33 terial by a named person or consisting of the name of a library patron together with the address
34 or telephone number, or both, of the patron.

35 (23) The following records, communications and information obtained by the Housing and Com-
36 munity Services Department in connection with the department's monitoring or administration of
37 financial assistance or of housing or other developments:

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

39 (b) Credit reports.

40 (c) Project appraisals.

41 (d) Market studies and analyses.

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

43 (f) Commitment letters.

44 (g) Project pro forma statements.

45 (h) Project cost certifications and cost data.

1 (i) Audits.

2 (j) Project tenant correspondence.

3 (k) Personal information about a tenant.

4 (L) Housing assistance payments.

5 (24) Raster geographic information system (GIS) digital databases, provided by private forestland
6 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
7 that is not otherwise required by law to be submitted.

8 (25) Sensitive business, commercial or financial information furnished to or developed by a
9 public body engaged in the business of providing electricity or electricity services, if the information
10 is directly related to a transaction described in ORS 261.348, or if the information is directly related
11 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
12 disclosure of the information would cause a competitive disadvantage for the public body or its re-
13 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
14 velopment or review of generally applicable rate schedules.

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

21 (27) Personally identifiable information about customers of a municipal electric utility or a
22 people's utility district. The utility or district may, however, release such information to a third
23 party if the customer consents in writing or electronically, if the disclosure is necessary to render
24 utility or district services to the customer, or if the disclosure is required pursuant to a court order.
25 The utility or district may charge as appropriate for the costs of providing such information. The
26 utility or district may make customer records available to third party credit agencies on a regular
27 basis in connection with the establishment and management of customer accounts or in the event
28 such accounts are delinquent.

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

31 (29) Sensitive business records, capital development plans or financial or commercial information
32 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

33 (30) Documents, materials or other information submitted to the Director of the Department of
34 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
35 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
36 or subsidiaries under ORS 646.380 to 646.396, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
37 to 717.320, 717.900 or 717.905, ORS chapter 59, 722, 723, 725 or 726, the Bank Act or the Insurance
38 Code when:

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

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

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

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

- 1 (a) Generation, storage or conveyance of:
2 (A) Electricity;
3 (B) Gas in liquefied or gaseous form;
4 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);
5 (D) Petroleum products;
6 (E) Sewage; or
7 (F) Water.
8 (b) Telecommunication systems, including cellular, wireless or radio systems.
9 (c) Data transmissions by whatever means provided.
10 **(33) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court**
11 **designates the information as confidential by rule under ORS 1.002.**
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