

House Bill 2281

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Judicial Department)

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**.

Modifies laws governing circuit courts and appellate courts.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; amending ORS 10.205, 10.215, 21.020, 40.325 and 45.275;
3 and declaring an emergency.

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

FEES FOR APPELLATE COURT AND STATE COURT ADMINISTRATOR SERVICES

5
6
7
8 **SECTION 1.** ORS 21.020 is amended to read:

9 21.020. [*For making and certifying to a copy of any opinion, pleading, judgment, paper or record*
10 *of the office of the State Court Administrator for private parties, and not in the course of the regular*
11 *court proceedings, the State Court Administrator shall collect the sum of 25 cents for each page. For*
12 *affixing the seal of the court where not in the course of the regular court proceedings the State Court*
13 *Administrator shall collect \$1.*]

14 (1) **The State Court Administrator shall collect a fee of \$1 for affixing the seal of the**
15 **court to a document.**

16 (2) **The Chief Justice of the Supreme Court by order may establish or authorize fees for**
17 **copies of records of the appellate courts and the administrative offices of the State Court**
18 **Administrator, for services relating to those records and for other services that the appellate**
19 **courts or administrative offices of the State Court Administrator are authorized or required**
20 **to perform for which no fees are specifically provided by law. The fee established by the Chief**
21 **Justice for paper copies of records may not exceed 25 cents per page, or the actual cost of**
22 **producing the copy, whichever is greater.**

INTERPRETERS

23
24
25
26 **SECTION 2.** ORS 45.275 is amended to read:

27 45.275. (1) The court shall appoint a qualified interpreter in a civil or criminal proceeding, and
28 a hearing officer or the designee of a hearing officer shall appoint a qualified interpreter in an
29 adjudicatory proceeding, whenever it is necessary:

30 (a) To interpret the proceedings to a non-English-speaking party;

31 (b) To interpret the testimony of a non-English-speaking party or witness; or

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 (c) To assist the court, agency or hearing officer in performing the duties and responsibilities
 2 of the court, agency or hearing officer.

3 (2) No fee shall be charged to any person for the appointment of an interpreter to interpret
 4 testimony of a non-English-speaking party or witness, or to assist the court, agency or hearing offi-
 5 cer in performing the duties and responsibilities of the court, agency or hearing officer. No fee shall
 6 be charged to a non-English-speaking party who is unable to pay for the appointment of an inter-
 7 preter to interpret the proceedings to the non-English-speaking party. No fee shall be charged to any
 8 person for the appointment of an interpreter if appointment is made to determine whether the person
 9 is unable to pay or non-English-speaking for the purposes of this section.

10 (3) A non-English-speaking party shall be considered unable to pay for an interpreter for the
 11 purposes of this section if:

12 (a) The party makes a verified statement and provides other information in writing under oath
 13 showing financial inability to pay for a qualified interpreter, and provides any other information
 14 required by the court or agency concerning the inability to pay for such an interpreter; and

15 (b) It appears to the court or agency that the party is in fact unable to pay for a qualified in-
 16 terpreter.

17 (4) Fair compensation for the services of an interpreter appointed under this section shall be
 18 paid:

19 (a) By the county, subject to the approval of the terms of the contract by the governing body
 20 of the county, in a proceeding in a county or justice court.

21 (b) By the city, subject to the approval of the terms of the contract by the governing body of
 22 the city, in a proceeding in a municipal court.

23 (c) By the state in a proceeding in a circuit court. Amounts payable by the state shall be from
 24 funds available to the court other than the Public Defense Services Account established by ORS
 25 151.225, except that fees of an interpreter necessary for the purpose of communication between ap-
 26 pointed counsel and a client or witness in a criminal case shall be payable from that account.

27 (d) By the agency in an adjudicatory proceeding.

28 (5) *[Where]* **If** a party or witness is dissatisfied with the interpreter *[selected]* **appointed** by the
 29 court, the hearing officer or the designee of the hearing officer, the party or witness may *[use any]*
 30 **request the appointment of a different** certified interpreter. **A request under this subsection**
 31 **must be made in a manner consistent with the policies and notice requirements of the court**
 32 **or agency relating to the appointment and scheduling of interpreters.** *[However,]* If the substi-
 33 tution of another interpreter will delay the proceeding, **the person making the request must**
 34 **show** good cause *[must be shown for any]* **for the** substitution *[other than a substitution made by the*
 35 *judge or hearing officer]*. Any party may object to use of any interpreter for good cause. Unless the
 36 court, hearing officer or the designee of the hearing officer has *[substituted interpreters]* **appointed**
 37 **a different interpreter** for cause, the party using any interpreter other than the interpreter ori-
 38 ginally appointed by the court, hearing officer or the designee of the hearing officer shall bear any
 39 additional costs beyond the amount required to pay the original interpreter.

40 **(6) A judge or hearing officer, on the judge's or hearing officer's own motion, may sub-**
 41 **stitute a different interpreter for the interpreter initially appointed in a proceeding. A judge**
 42 **or hearing officer may make a substitution under this subsection at any time and for any**
 43 **reason.**

44 *[(6)]* (7) A court may allow as costs reasonable expenses incurred by a party in employing the
 45 services of an interpreter in civil proceedings in the manner provided by ORCP 68.

1 [(7)] (8) A court, a hearing officer or the designee of a hearing officer shall require any person
 2 serving as an interpreter for the court or agency to state the person’s name on the record and
 3 whether the person is certified under ORS 45.291. If the person is certified under ORS 45.291, the
 4 interpreter need not make the oath or affirmation required by ORS 40.325 or submit the interpreter’s
 5 qualifications on the record. If the person is not certified under ORS 45.291, the interpreter must
 6 make the oath or affirmation required by ORS 40.325 and submit the interpreter’s qualifications on
 7 the record.

8 [(8)] (9) For the purposes of this section:

9 (a) “Hearing officer” includes an administrative law judge.

10 (b) “Non-English-speaking person” means a person who, by reason of place of birth or culture,
 11 speaks a language other than English and does not speak English with adequate ability to commu-
 12 nicate effectively in the proceedings.

13 (c) “Qualified interpreter” means a person who is readily able to communicate with the non-
 14 English-speaking person and who can orally transfer the meaning of statements to and from English
 15 and the language spoken by the non-English-speaking person. A qualified interpreter must be able
 16 to interpret in a manner that conserves the meaning, tone, level, style and register of the original
 17 statement, without additions or omissions. “Qualified interpreter” does not include any person who
 18 is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

19 **SECTION 3.** ORS 40.325 is amended to read:

20 40.325. Except as provided in ORS 45.275 [(7)] (8), an interpreter is subject to the provisions of
 21 the Oregon Evidence Code relating to qualification as an expert and the administration of an oath
 22 or affirmation that the interpreter will make a true and impartial interpretation of the proceedings
 23 in an understandable manner using the interpreter’s best skills and judgment in accordance with the
 24 standards and ethics of the interpreter profession.

25
 26 **JURORS**
 27

28 **SECTION 4.** ORS 10.205 is amended to read:

29 10.205. (1) ORS 10.205 to 10.265 governs the selection and summoning of persons for service as
 30 grand jurors or trial jurors in the circuit court in a county.

31 [(2) *The presiding judge for the judicial district shall prescribe a selection system or device, which*
 32 *may include any electronic, mechanical or manual system or device or any combination thereof, for use*
 33 *in the performance of functions under ORS 10.215 to 10.265, 132.020 and ORCP 57 B for the selection*
 34 *of jurors in the county, but the selection must be done randomly.*]

35 [(3)] (2) The presiding judge for the judicial district may authorize the use of juror identification
 36 numbers in place of juror names in the performance of functions under ORS 10.215 to 10.265, 132.020
 37 and ORCP 57 B for the selection of jurors in the county, except for functions under ORS 10.215 (4)
 38 and 10.225 (3), when to do so would promote the efficiency of the selection process, but the selection
 39 must be done randomly.

40 **SECTION 5.** ORS 10.215 is amended to read:

41 10.215. (1) The State Court Administrator shall cause to be prepared at least once each year a
 42 master jury list containing names selected at random from the source lists. The source lists are the
 43 most recent list of electors of the county, the records furnished by the Department of Transportation
 44 as provided in ORS 802.260 (2) and any other sources approved by the Chief Justice of the Supreme
 45 Court that will furnish a fair cross section of the citizens of the county. The State Court Adminis-

1 trator and circuit courts may use source lists obtained from *[private or public entities]* **any person**
 2 **or public body**, and jury lists containing names selected from a source list, only for purposes con-
 3 sistent with administering the selection and summoning of persons for service as jurors, the drawing
 4 of names of jurors, and other tasks necessary to accomplish those functions. Except as specifically
 5 provided by law, the State Court Administrator and circuit courts may not disclose source lists ob-
 6 tained from *[private or public entities]* **any person or public body**, and jury lists containing names
 7 selected from a source list, to any other person or public *[entity]* **body**.

8 (2) A public *[entity]* **body** having custody, possession or control of any list that may be used as
 9 a source list for preparation of a master jury list, upon written request by the State Court Admin-
 10 istrator, shall make its list available at any reasonable time and, except as otherwise provided in
 11 ORS 802.260, without charge to the State Court Administrator for inspection or copying. The public
 12 *[entity]* **body**, upon written request by the State Court Administrator, shall provide a copy of its list
 13 for the date and in the form requested to the State Court Administrator. Except as otherwise pro-
 14 vided in ORS 802.260, the copy shall be provided without charge.

15 (3) The number of names placed on a master jury list shall be sufficient to meet the projected
 16 need for grand jurors and trial jurors in the circuit court in the county, but the total number shall
 17 not be less than two percent of the population of the county according to the latest federal
 18 decennial census.

19 (4) A master jury list shall contain the first name, the surname, the place of residence and, if
 20 assigned, the juror identification number of each person whose name is placed thereon.

21 (5) A master jury list shall be certified by the trial court administrator and placed on file in the
 22 circuit court as soon as possible after it is prepared.

23 (6) A newly filed master jury list shall be maintained separately from the previously filed master
 24 jury list. The presiding judge shall designate when a newly filed master jury list becomes effective,
 25 after which time names of persons shall not be selected from the previously filed master jury list for
 26 a term jury list. When a newly filed master jury list becomes effective, all orders, records and papers
 27 prepared in connection with the selection process based on the previously filed master jury list shall
 28 be preserved by the trial court administrator and State Court Administrator for the period pre-
 29 scribed by the State Court Administrator under ORS 8.125.

30 (7) **The State Court Administrator may make adjustments to the master jury list, and**
 31 **may authorize the presiding judge of a judicial district to make adjustments to a term jury**
 32 **list, for the purpose of updating the addresses of persons appearing on the lists and removing**
 33 **the names of persons who are deceased, permanently ineligible for jury service or perma-**
 34 **nently excused from jury service. The State Court Administrator shall ensure that a record**
 35 **is maintained of all adjustments to jury lists made under this subsection.**

36 [(7)] (8) For the purposes of this section, “public *[entity]* **body**” *[means any officer or agency of*
 37 *the state or of any city, county, school district or other special district in this state]* **has the meaning**
 38 **given that term in ORS 174.109.**

39
 40 **MISCELLANEOUS PROVISIONS**

41
 42 **SECTION 6. The unit captions used in this 2005 Act are provided only for the convenience**
 43 **of the reader and do not become part of the statutory law of this state or express any leg-**
 44 **islative intent in the enactment of this 2005 Act.**

45 **SECTION 7. This 2005 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
2 **on its passage.**

3
