

House Bill 2282

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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 **as introduced**.

Modifies complaint in criminal and violation citations. Provides that for purposes of entering plea of guilty or no contest defendant appears in person if plea entered at arraignment and defendant appears in person at arraignment. Provides that criminal judgment including money award that does not contain separate section labeled as money award may be enforced by judgment remedy other than judgment lien.

A BILL FOR AN ACT

1
2 Relating to criminal procedure; creating new provisions; and amending ORS 18.048, 133.069, 135.360,
3 135.385 and 153.045.

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

5 **SECTION 1.** ORS 133.069 is amended to read:

6 133.069. (1) A criminal citation issued with a form of complaint must contain:

7 (a) The name of the court at which the cited person is to appear.

8 (b) The name of the person cited.

9 (c) A complaint containing at least the following:

10 (A) The name of the court, the name of the state or of the city or other public body in whose
11 name the action is brought and the name of the defendant.

12 (B) A statement or designation of the crime that can be readily understood by a person making
13 a reasonable effort to do so and the date, time and place at which the crime is alleged to have been
14 committed.

15 (C) A form of certificate in which the peace officer must certify that the peace officer has [*rea-*
16 *sonable*] **sufficient** grounds to believe, and does believe, that the person named in the complaint
17 committed the offense specified in the complaint. A certificate conforming to this subparagraph shall
18 be deemed equivalent to a sworn complaint.

19 (d) The date on which the citation was issued, and the name of the peace officer who issued the
20 citation.

21 (e) The date, time and place at which the person cited is to appear in court, and a summons to
22 so appear.

23 (f) If the arrest was made by a private party, the name of the arresting person.

24 (2) The district attorney for the county shall review any criminal citation issued with a form
25 of complaint that is to be filed in a circuit or justice court. The review must be done before the
26 complaint is filed.

27 (3) If the complaint does not conform to the requirements of this section, the court shall set the
28 complaint aside upon motion of the defendant made before entry of a plea. A pretrial ruling on a
29 motion to set aside may be appealed by the state.

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 (4) A court may amend a complaint at its discretion.

2 **SECTION 2.** ORS 153.045 is amended to read:

3 153.045. (1) Except as provided in subsection (5) of this section, a citation conforming to the
4 requirements of this section must be used by enforcement officers for all violations. The citation
5 may contain other language in addition to the language specified in this section.

6 (2) Uniform citation forms for violations shall be adopted by the Supreme Court under ORS
7 1.525. In adopting those forms, the Supreme Court may combine the requirements for violation ci-
8 tations under this section and the requirements for criminal citations under ORS 133.066. More than
9 one violation may be charged on a single citation form, but a crime and a violation may not be
10 charged on the same citation form.

11 (3) A violation citation shall consist of at least four parts. Additional parts may be inserted for
12 administrative use. The required parts are:

13 (a) A complaint in the form prescribed by ORS 153.048.

14 (b) The abstract of court record.

15 (c) The police record.

16 (d) A summons in the form prescribed by ORS 153.051.

17 (4) Each of the parts shall contain the information or blanks required by rules of the Supreme
18 Court under ORS 1.525.

19 (5) The complaint shall contain a form of certificate in which the enforcement officer must cer-
20 tify, under the penalties provided in ORS 153.990, that the enforcement officer has [*reasonable*]
21 **sufficient** grounds to believe, and does believe, that the person named in the complaint committed
22 the violation specified in the complaint. A certificate conforming to this subsection shall be deemed
23 equivalent of a sworn complaint.

24 **SECTION 3. The use prior to the effective date of this 2005 Act of a certificate required**
25 **by ORS 133.069 or 153.045 that used the term “sufficient grounds” rather than “reasonable**
26 **grounds” is validated.**

27 **SECTION 4.** ORS 135.360 is amended to read:

28 135.360. (1) Except as provided in subsection (2) of this section, a plea of guilty or no contest
29 to a crime punishable as a felony shall in all cases be put in by the defendant in person in open
30 court unless upon an accusatory instrument against a corporation, in which case it may be put in
31 by counsel. **For purposes of this subsection, a defendant puts in a plea of guilty or no contest**
32 **in person if the defendant enters the plea at arraignment and the defendant appears in per-**
33 **son at arraignment as described in ORS 135.030 (3).**

34 (2) Any circuit judge may, within any county in the own district of the judge other than the
35 county where the accusation is pending, accept pleas of guilty or no contest from persons charged
36 with a crime punishable as a felony and pass sentence thereon upon written request of the accused
37 and the attorney of the accused and upon not less than one day’s notice to the district attorney.
38 All orders entering such pleas and such sentences shall be as effective as though heard and deter-
39 mined in open court in the county where the accusation is pending and shall be transmitted by the
40 judge to the clerk of the court in the county where the accusation is pending, whereupon the same
41 shall be filed and entered and become effective from the date of filing thereof.

42 **SECTION 5.** ORS 135.385 is amended to read:

43 135.385. (1) The court shall not accept a plea of guilty or no contest to a felony or other charge
44 on which the defendant appears in person without first addressing the defendant personally and
45 determining that the defendant understands the nature of the charge.

1 (2) The court shall inform the defendant:

2 (a) That by a plea of guilty or no contest the defendant waives the right:

3 (A) To trial by jury;

4 (B) Of confrontation; and

5 (C) Against self-incrimination.

6 (b) Of the maximum possible sentence on the charge, including the maximum possible sentence
7 from consecutive sentences.

8 (c) When the offense charged is one for which a different or additional penalty is authorized by
9 reason of the fact that the defendant may be adjudged a dangerous offender, that this fact may be
10 established after a plea in the present action, thereby subjecting the defendant to different or addi-
11 tional penalty.

12 (d) That if the defendant is not a citizen of the United States conviction of a crime may result,
13 under the laws of the United States, in deportation, exclusion from admission to the United States
14 or denial of naturalization.

15 (e) That if the defendant is entering a guilty plea pursuant to a plea offer and agreed disposition
16 recommendation under ORS 135.405, the court will agree to impose sentence as provided in the
17 agreed disposition recommendation.

18 **(3) For purposes of this section, a defendant appears in person at an arraignment if the**
19 **defendant appears in person as described in ORS 135.030 (3).**

20 **SECTION 6. A plea of guilty or no contest entered before the effective date of this 2005**
21 **Act by a defendant at arraignment who appeared in person as described in ORS 135.030 (3)**
22 **is validated.**

23 **SECTION 7.** ORS 18.048 is amended to read:

24 18.048. (1) If a judgment document in a criminal action contains a money award, whether by
25 reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and
26 disbursements or any other monetary obligation, and the judgment is for conviction of a felony or
27 misdemeanor, the court administrator shall note in the register that the judgment creates a judg-
28 ment lien if the judgment document complies with this section. If the judgment is for conviction of
29 a violation as described in ORS 153.008, the court administrator shall note in the register that the
30 judgment creates a judgment lien only if the court has ordered that the judgment create a judgment
31 lien.

32 (2) As a condition of creating a judgment lien, the judgment document for a judgment in a
33 criminal action that includes a money award must contain a separate section setting forth the
34 money award, must meet the requirements of ORS 18.038 and must contain the following informa-
35 tion:

36 (a) A listing of the specific amounts awarded as fines, assessments, costs, restitution and any
37 other monetary obligations imposed in the sentence as part of the money award. If the court is un-
38 able to determine the full amount of restitution at the time of sentencing, the court may include the
39 amount that can be determined or may establish a maximum amount.

40 (b) If restitution or a compensatory fine is ordered, the name and address of the person to whom
41 the court should disburse payments, unless the victim requests that this information be exempt from
42 disclosure in the public record.

43 (c) A statement that, subject to amendment of a judgment under ORS 137.107, money required
44 to be paid as a condition of probation remains payable after revocation of probation only if the
45 amount is included in the money award portion of the judgment document, even if the amount is

1 referred to in other parts of the judgment document.

2 (d) Unless immediate payment is required, the specific terms of payment imposed or allowed by
3 the court.

4 (e) If payment of all or part of a monetary obligation is suspended, a statement specifying the
5 nature and amount of the suspended obligations.

6 (3) The requirements of this section and ORS 18.038 do not apply to a judgment document if the
7 action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the court
8 has used the space on the citation for the entry of a judgment. The exemption provided by this
9 subsection does not apply if any indictment, information or complaint other than a uniform citation
10 is filed in the action.

11 (4) A judgment in a criminal action that contains a money award is a judgment in favor of the
12 state and may be enforced only by the state.

13 **(5) A judgment in a criminal action that includes a money award, but does not contain**
14 **a separate section clearly labeled as a money award, does not create a judgment lien but**
15 **may be enforced by any other judgment remedy.**

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