

APPENDIX D

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

A-Engrossed Senate Bill 189

Ordered by the Senate April 24
Including Senate Amendments dated April 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of 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.

Increases juror fees in district and circuit courts from \$10 per day to [~~\$40~~] **\$20** per day. Provides that [*public*] employees who receive salary or wages during jury service not be paid juror fees. Modifies rate of payment for mileage payable to jurors. Allows payment of parking fees. **Allows payment of [] lodging expenses, dependent care expenses and other reasonable expenses of jurors, subject to availability of funds.**

Takes effect January 1, 1996.

A BILL FOR AN ACT

1
2 Relating to jurors; creating new provisions; amending ORS 10.060, 10.065 and 10.075; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 10.060 is amended to read:

6 10.060. [*(1) The fees of jurors shall be as follows:*]

7 [*(a) For each day's required attendance upon a court of record, \$10.*]

8 [*(b) For each juror sworn in the justice court, or upon an inquest, \$10.*]

9 [*(2) In addition to the fees and mileage prescribed in subsection (1) of this section and ORS 10.065,*
10 *the governing body of a county may provide by ordinance for reimbursement by the county of jurors*
11 *for mileage and other expenses incurred in serving as jurors.*]

12 (1) **The fee of jurors in courts other than district and circuit courts is \$10 for each day's**
13 **required attendance.**

14 (2) **The fee of jurors in district and circuit courts is \$20 for each day's required attend-**
15 **ance.**

16 (3) **A juror shall not be paid the juror's fee provided for in subsection (2) of this section**
17 **if the juror is paid a wage or salary by the juror's employer for the days that the juror is**
18 **required to attend a district or circuit court.**

19 (4) **In addition to the fees and mileage prescribed in subsection (1) of this section and**
20 **ORS 10.065 for service in a court other than a district or circuit court, the governing body**
21 **of a city or county may provide by ordinance for an additional juror fee and for reimburse-**
22 **ment by the city or county of jurors for mileage and other expenses incurred in serving as**
23 **jurors in courts other than district or circuit courts.**

24 **SECTION 2.** ORS 10.065 is amended to read:

25 10.065. (1) [*Every juror whose fees are prescribed in ORS 10.060*] **In addition to the fees pre-**

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.

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1 **scribed in ORS 10.060, a juror** who is required to travel from the juror's usual place of abode in
 2 order to execute or perform service as a juror~~, in addition to the fees prescribed in ORS 10.060, shall~~
 3 ~~be entitled to~~ **in a court other than a district or circuit court shall be paid** mileage at the rate
 4 of eight cents a mile for travel in going to and returning from the place where the service is per-
 5 formed. [*Such juror shall be entitled to such mileage for each day's attendance upon court.*]

6 **(2) In addition to the fees prescribed in ORS 10.060, a juror who is required to travel from**
 7 **the juror's usual place of abode in order to execute or perform service as a juror in a district**
 8 **or circuit court shall be paid mileage for travel in going to and returning from the place**
 9 **where the service is performed and shall be paid for any reasonable parking fees incurred**
 10 **by the juror for each day's required attendance at the court. The mileage payment may be**
 11 **based on actual costs of travel or on the rate established by the State Court Administrator**
 12 **as a travel mileage allowance, but in no event may the mileage payment be less than 10 cents**
 13 **per mile. Mileage paid to a juror shall be based on the shortest practicable route between the**
 14 **juror's residence and the place where court is held.**

15 **(3) In addition to the fees prescribed in ORS 10.060, a juror serving in district or circuit**
 16 **court may be paid for lodging expenses, dependent care expenses and other reasonable ex-**
 17 **penses that arise by reason of jury service. The State Court Administrator shall establish**
 18 **policies and procedures on eligibility, authorization and payment of expenses under this**
 19 **subsection. Payment of expenses under this subsection is subject to availability of funds for**
 20 **the payment.**

21 **(4) A juror shall be paid the mileage, parking fees and other expenses provided for in this**
 22 **section for each day's attendance at court.**

23 **SECTION 3.** ORS 10.075 is amended to read:

24 10.075. (1) The per diem fees, [*and*] **parking fees, mileage and other expenses** due to [*each*
 25 *grand juror and each trial*] **a person serving as a juror** in the circuit or district court shall be paid
 26 by the state from funds available for the purpose. Payment shall be made upon a certified statement,
 27 prepared by the clerk of court, showing the number of days each juror has served and the amount
 28 due each juror for mileage, **parking fees and other expenses.**

29 (2) If a [*grand jury or a trial*] jury in the circuit or district court is provided food, drink, lodging
 30 or transportation by order of the circuit or district court, the cost thereof shall be paid by the state
 31 from funds available for the purpose.

32 [*(3) This section does not apply to mileage and other expenses of jurors reimbursed by a county*
 33 *as provided in ORS 10.060 (2).*]

34 **SECTION 4.** The amendments to ORS 10.060, 10.065 and 10.075 by sections 1, 2 and 3 of
 35 this Act apply only to jurors summoned on or after the effective date of this Act.

36 **SECTION 5.** This Act takes effect January 1, 1996.
 37

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

B-Engrossed Senate Bill 192

Ordered by the House May 15
Including Senate Amendments dated March 16 and House Amendments
dated May 15

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of 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.

Revises laws relating to courts and administration of justice. **Requires that State Court Administrator conduct study and report to Legislative Assembly.**

A BILL FOR AN ACT

1
2 Relating to administration of justice; creating new provisions; and amending ORS 1.150, 1.820, 2.111,
3 8.120, 8.225, 10.215, 19.078, 21.110, 21.112, 21.605, 24.115, 45.275, 46.221, 46.274, 52.630, 105.130,
4 107.755, 107.765, 107.785, 138.560, 305.480, 305.485, 419B.265, 419B.271 and 419C.258.

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

6 **SECTION 1.** ORS 1.150 is amended to read:

7 1.150. (1) **Except as provided in subsection (2) of this section,** every writing in any action,
8 suit or proceeding in a court of justice of this state, or before a judicial officer, shall be in English;
9 but common abbreviations may be used.

10 (2) **A writing in an action, suit or proceeding in a court of justice of this state, or before**
11 **a judicial officer, may be submitted in English and accompanied by a translation into a for-**
12 **ign language that is certified by the translator to be an accurate and true translation of the**
13 **English writing. If the writing requires a signature, either the English or the foreign lan-**
14 **guage writing may be signed.**

15 (3) **If a writing is submitted in English and accompanied by a translation under sub-**
16 **section (2) of this section, a copy of the writing and the translation must be provided to the**
17 **other parties in the proceeding in the manner provided by the statutes and rules relating to**
18 **service, notice and discovery of writings in civil and criminal proceedings in courts of justice**
19 **of this state and before judicial officers.**

20 (4) **The State Court Administrator may establish policies and procedures governing the**
21 **implementation of subsection (2) of this section.**

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

A-Engrossed Senate Bill 864

Ordered by the Senate May 1
Including Senate Amendments dated May 1

Sponsored by COMMITTEE ON JUDICIARY

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 appointment of interpreter for non-English speaking parties and witnesses in contested case proceedings before administrative agencies. Specifies when fees may be charged for appointment. Requires certification of interpreters for contested case proceedings.

[Requires Oregon Department of Administrative Services to create interpreter certification program if funding available. Establishes Agency Interpreter Certification Account.]

[Appropriates moneys to department to establish certification program.]

A BILL FOR AN ACT

1 Relating to interpreters; creating new provisions; and amending ORS 183.418.

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

3 **SECTION 1.** ORS 183.418 is amended to read:

4 183.418. *[(1) When a non-English speaking person is a party to a contested case, the non-English*
5 *speaking person is entitled to a qualified interpreter to interpret the proceedings to the non-English*
6 *speaking person and to interpret the testimony of the non-English speaking person to the agency.]*

7 *[(2)(a) Except as provided in paragraph (b) of this subsection, the agency shall appoint the qualified*
8 *interpreter for the non-English speaking person; and the agency shall fix and pay the fees and expenses*
9 *of the qualified interpreter if:]*

10 *[(A) The non-English speaking person makes a verified statement and provides other information*
11 *in writing under oath showing the inability of the non-English speaking person to obtain a qualified*
12 *interpreter, and provides any other information required by the agency concerning the inability of the*
13 *non-English speaking person to obtain such an interpreter; and]*

14 *[(B) It appears to the agency that the non-English speaking person is without means and is unable*
15 *to obtain a qualified interpreter.]*

16 *[(b) If the non-English speaking person knowingly and voluntarily files with the agency a written*
17 *statement that the non-English speaking person does not desire a qualified interpreter to be appointed*
18 *for the non-English speaking person, the agency shall not appoint such an interpreter for the non-*
19 *English speaking person.]*

20 **(1) An agency shall appoint a qualified language interpreter whenever it is necessary:**

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

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

23 **(c) To assist the agency in performing the duties and responsibilities of the agency.**

24 **(2) No fee shall be charged to any person for the appointment of an interpreter under this**
25 **section for the purpose of interpreting the testimony of a non-English speaking party or**
26

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.

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1 witness or for the purpose of assisting the agency in performing the duties and responsibil-
2 ities of the agency. No fee shall be charged to an indigent party for the appointment of an
3 interpreter for the purpose of interpreting the proceedings to a non-English speaking party.
4 In no event shall a fee be charged to any person for the appointment of an interpreter if the
5 appointment is made for the purpose of determining if the party is indigent or non-English
6 speaking.

7 (3) A party shall be considered indigent for the purposes of this section if:

8 (a) The party who requests a foreign language interpreter makes a verified statement
9 and provides other information in writing under oath showing the inability of the party to
10 obtain a qualified interpreter, and provides any other information required by the agency
11 concerning the inability of the party to obtain such an interpreter; and

12 (b) It appears to the agency that the party is without means and is unable to obtain a
13 qualified interpreter.

14 (4) The agency shall fix and pay fair compensation to an interpreter appointed under this
15 section.

16 (5) If a party or witness is dissatisfied with the interpreter selected by the agency, the
17 party or witness may use any interpreter certified under ORS 45.291 or who has otherwise
18 been approved by the agency. However, if the substitution of another interpreter will delay
19 the proceeding, good cause must be shown for the substitution. Any party may object to use
20 of any interpreter for good cause. Unless the agency has substituted interpreters for cause,
21 the party using any interpreter other than the interpreter originally appointed by the agency
22 shall bear any additional costs beyond the amount required to pay the original interpreter.

23 (6) Any person serving as an interpreter for the agency in a contested case proceeding
24 shall state or submit the person's qualifications on the record unless waived or otherwise
25 stipulated to by the parties or counsel for the parties. An interpreter for the agency shall
26 swear or affirm under oath to make a true and impartial translation of the proceedings in
27 an understandable manner using the interpreter's best skills and judgment in accordance
28 with the standards and ethics of the interpreter profession.

29 [(3)] (7) As used in this section:

30 (a) "Interpret" means the act of orally repeating the statements of a non-English
31 speaking person in oral English and orally repeating the statements of an English speaking
32 person in a foreign language. "Interpret" does not mean translating a document written in
33 a foreign language into a document written in English or translating a document written in
34 English into a document written in a foreign language.

35 [(a)] (b) "Non-English speaking [person]" means that a person [who], by reason of place of birth
36 or culture, speaks a language other than English and does not speak English with adequate ability
37 to communicate effectively in the proceedings.

38 [(b)] (c) "Qualified interpreter" means a person who is readily able to communicate with the
39 non-English speaking person, [translate] interpret the proceedings for the non-English speaking
40 person, and accurately interpret and repeat [and translate] the statements of the non-English
41 speaking person [to the agency] in oral English, and the statements of other persons in the
42 language spoken by the non-English speaking person. "Qualified interpreter" does not include
43 any person who is unable to interpret and repeat fluently the dialect, slang or specialized
44 vocabulary used by the party or witness.

45 SECTION 2. The amendments to ORS 183.418 by section 1 of this Act apply to any con-

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1 tested case hearing commenced on or after the effective date of this Act.

2 **SECTION 3.** (1) Except as provided by this section, whenever an agency is required to
3 appoint an interpreter for any person in a contested case proceeding, the agency shall ap-
4 point a qualified interpreter who has been certified under ORS 45.291 or who has otherwise
5 been approved by the agency. If no certified interpreter is available, able or willing to serve,
6 the agency may appoint any other qualified interpreter. Upon request of a party or witness,
7 the agency, in its discretion, may appoint a qualified interpreter who has not been certified
8 to act as an interpreter in lieu of a certified interpreter in any proceeding.

9 (2) The requirements of this section apply to appointments of interpreters for disabled
10 persons, as defined in ORS 183.421, and for “non-English speaking” persons, as defined in
11 ORS 183.418.

12 (3) The agency may not appoint any person under this section, ORS 183.418 or 183.421 if:

13 (a) The person has a conflict of interest with any of the parties or witnesses in the pro-
14 ceeding;

15 (b) The person is unable to understand the party or witness, or cannot be understood by
16 the party or witness; or

17 (c) The person is unable to work cooperatively with the person in need of an interpreter
18 or the counsel for that person.

19 (4) For the purposes of this section, “qualified interpreter” means a person who meets
20 the requirements of ORS 183.421 for a disabled person or a person who meets the require-
21 ments of ORS 183.418 for a “non-English speaking” person.
22

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

Senate Bill 865

Sponsored by COMMITTEE ON JUDICIARY

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.

Requires appointment of interpreters for non-English speaking parties and certain other persons in juvenile proceedings and in matters referred to mediation or mandatory arbitration. Modifies grounds for appointment and provisions on when charge may be made for interpreter services.

A BILL FOR AN ACT

1 Relating to interpreters; creating new provisions; and amending ORS 45.275, 419B.115 and 419C.285.

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

3 **SECTION 1.** ORS 45.275 is amended to read:

4 45.275. (1) In any civil or criminal proceeding in which an indigent person who is in need of an
5 interpreter is a party, **including matters referred to mediation under ORS 36.180 to 36.210 and**
6 **matters referred to arbitration under ORS 36.400 to 36.425**, the court shall appoint a qualified
7 interpreter whenever it is necessary:

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

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

10 (c) *[To interpret the testimony of any non-English speaking witness testifying on behalf of the in-*
11 *digent party]* **To assist the court in performing the duties and responsibilities of the court.**

12 (2) *[No fee shall be charged to an indigent party for the appointment of an interpreter under this*
13 *section.]* **No fee shall be charged to any person for the appointment of an interpreter under**
14 **this section for the purpose of interpreting the testimony of a non-English speaking party**
15 **or witness or for the purpose of assisting the court in performing the duties and responsi-**
16 **bilities of the court. No fee shall be charged to an indigent party for the appointment of an**
17 **interpreter for the purpose of interpreting the proceedings to a non-English speaking party.**

18 No fee shall be charged to any person for the appointment of an interpreter if appointment is made
19 to determine whether the person is indigent or non-English speaking for the purposes of this section.

20 (3) A party shall be considered indigent for the purposes of this section if:

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

24 (b) It appears to the court that the party is in fact indigent and unable to pay for a qualified
25 interpreter.

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

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

30 (b) By the city, subject to the approval of the terms of the contract by the governing body of
31

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.

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1 the city, in a proceeding in a municipal court.

2 (c) By the state in a proceeding in a circuit or district court. Amounts payable by the state shall
3 be from funds available to the court other than the State Court Indigent Defense Account estab-
4 lished by ORS 151.465, except that fees of an interpreter necessary for the purpose of communication
5 between appointed counsel and a client or witness in a criminal case shall be payable from that
6 account.

7 (5) Where a party or witness is dissatisfied with the interpreter selected by the court, the party
8 or witness may use any certified interpreter. However, if the substitution of another interpreter will
9 delay the proceeding, good cause must be shown for the substitution. Any party may object to use
10 of any interpreter for good cause. Unless the court has substituted interpreters for cause, the party
11 using any interpreter other than the interpreter originally appointed by the court shall bear any
12 additional costs beyond the amount required to pay the original interpreter.

13 (6) A court acting in its sole discretion and the interests of justice may order that the reason-
14 able costs of providing the services of an interpreter in civil proceedings, including depositions, be
15 taxed as costs if the prevailing party is unable to pay and requires interpreter's services and the
16 nonprevailing party is financially able to pay those costs. The procedure for seeking costs under this
17 subsection shall be as provided in ORCP 68 C(4).

18 (7) Any person serving as an interpreter for the court in a civil or criminal proceeding shall
19 state or submit the person's qualifications on the record unless waived or otherwise stipulated to
20 by the parties or counsel for the parties. An interpreter for the court shall swear or affirm under
21 oath to make a true and impartial translation of the proceedings in an understandable manner using
22 the interpreter's best skills and judgment in accordance with the standards and ethics of the inter-
23 preter profession.

24 (8) For the purposes of this section:

25 (a) **"Interpret" means the act of orally repeating the statements of a non-English**
26 **speaking person in oral English, and orally repeating the statements of an English speaking**
27 **person in a foreign language. "Interpret" does not mean translating a document written in**
28 **a foreign language into a document written in English, or translating a document written in**
29 **English into a document written in a foreign language.**

30 [(a)] (b) "Non-English speaking [person]" means that a person [who], by reason of place of birth
31 or culture, speaks a language other than English and does not speak English with adequate ability
32 to communicate effectively in the proceedings.

33 [(b)] (c) "Qualified interpreter" means a person who is readily able to communicate with the
34 non-English speaking person, [translate] interpret the proceedings and accurately repeat and
35 [translate] interpret the statements of the non-English speaking person into oral English, and the
36 statements of other persons into the language spoken by the non-English speaking person. "Quali-
37 fied interpreter" does not include any person who is unable to interpret [or translate] and repeat
38 fluently the dialect, slang or specialized vocabulary used by the party or witness.

39 **SECTION 2.** ORS 419B.115 is amended to read:

40 419B.115. (1) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500, are:

- 41 (a) The minor child;
42 (b) The legal parents or guardian;
43 (c) The state;
44 (d) The juvenile department;
45 (e) A court appointed special advocate, if appointed;

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- 1 (f) The Children's Services Division or other child-caring agency if the agency has temporary
2 custody of the child; and
- 3 (g) An intervenor under ORS 109.119 (1) to (4).
- 4 (2) The rights of the parties include, but are not limited to:
- 5 (a) The right to notice of the proceeding and copies of the pleadings;
- 6 (b) The right to appear with counsel and to have counsel appointed as otherwise provided by
7 law;
- 8 (c) The right to call witnesses, cross-examine witnesses and participate in hearings;
- 9 (d) The right of appeal; and
- 10 (e) The right to request a hearing.
- 11 (3)(a) Persons who are not parties under subsection (1) of this section may petition the court for
12 rights of limited participation. The petition must be filed and served on all parties no later than two
13 weeks before a proceeding in the case in which participation is sought. The petition must state:
- 14 (A) The reason the participation is sought;
- 15 (B) How the person's involvement is in the best interest of the child or the administration of
16 justice;
- 17 (C) Why the parties cannot adequately present the case; and
- 18 (D) What specific relief is being sought.
- 19 (b) If the court finds that the petition is well founded, the court may grant rights of limited
20 participation as specified by the court.
- 21 (c) Persons petitioning for rights of limited participation are not entitled to court-appointed
22 counsel.
- 23 **(4) Interpreters for parties and persons granted rights of limited participation shall be**
24 **appointed in the manner specified by ORS 45.275 and 45.285. In addition, interpreters shall**
25 **be appointed for any person who has had extended personal involvement with the child.**
- 26 **SECTION 3.** ORS 419C.285 is amended to read:
- 27 419C.285. (1) At the adjudication stage of a delinquency proceeding, the parties to the proceed-
28 ing are the child and the state, represented by the district attorney or the juvenile department. At
29 the dispositional stage of a delinquency proceeding, the following are also parties:
- 30 (a) The parents or guardian of the child;
- 31 (b) A court appointed special advocate, if appointed;
- 32 (c) The Children's Services Division or other child care agency, if the child is temporarily
33 committed to the agency; and
- 34 (d) An intervenor under ORS 109.119 (1) to (4).
- 35 (2) The rights of the parties include, but are not limited to:
- 36 (a) The right to notice of the proceeding and copies of the pleadings;
- 37 (b) The right to appear with counsel and to have counsel appointed if otherwise provided by law;
- 38 (c) The right to call witnesses, cross-examine witnesses and participate in hearings;
- 39 (d) The right to appeal; and
- 40 (e) The right to request a hearing.
- 41 (3)(a) Persons who are not parties under subsection (1) of this section may petition the court for
42 rights of limited participation. The petition must be filed and served on all parties no later than two
43 weeks before a proceeding in the case in which participation is sought. The petition must state:
- 44 (A) The reason the participation is sought;
- 45 (B) How the person's involvement is in the best interest of the child or the administration of

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1 justice;

2 (C) Why the parties cannot adequately present the case; and

3 (D) What specific relief is being sought.

4 (b) If the court finds that the petition is well founded, the court may grant rights of limited
5 participation as specified by the court.

6 (c) Persons petitioning for rights of limited participation are not entitled to court-appointed
7 counsel.

8 (4) Interpreters for parties and persons granted rights of limited participation shall be
9 appointed in the manner specified by ORS 45.275 and 45.285. In addition, interpreters shall
10 be appointed for any person who has had extended personal involvement with the child.

11 **SECTION 4.** The amendments to ORS 45.275 by section 1 of this Act apply to any pro-
12 ceeding commenced on or after the effective date of this Act. The amendments to ORS
13 419B.115 and 419C.285 by sections 2 and 3 of this Act apply to all proceedings in juvenile court
14 commenced on or after the effective date of this Act.
15

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

A-Engrossed Senate Bill 866

- Ordered by the Senate April 28
Including Senate Amendments dated April 28

Sponsored by COMMITTEE ON JUDICIARY

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 Criminal Justice Council to collect data on *[influence of]* race of individuals charged with crimes and report any racial bias in charging *[decisions]* process. Requires council to *[determine and]* report on extent that race of defendant affects pretrial release decisions. Requires council to *[determine and]* report whether race, ethnicity or cultural differences of inmates play role in revocation of parole or post-prison supervision, in probation status or in correction administrative processes.

A BILL FOR AN ACT

1
2 Relating to criminal procedure; amending ORS 137.655.

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

4 **SECTION 1.** ORS 137.655 is amended to read:

5 137.655. The Oregon Criminal Justice Council shall:

6 (1) Study and make recommendations concerning the functioning of the various parts of the
7 criminal justice system, including study and recommendations concerning implementation of com-
8 munity corrections programs;

9 (2) Study and make recommendations concerning the coordination of the various parts of the
10 criminal justice system;

11 (3) Conduct research and evaluation of programs, methods and techniques employed by the se-
12 veral components of the criminal justice system;

13 (4) Study and make recommendations concerning the capacity, utilization and type of state and
14 local prison and jail facilities and alternatives to the same including the appropriate use of existing
15 facilities and programs, and the desirability of additional or different facilities and programs;

16 (5) Study and make recommendations concerning methods of reducing risk of future criminal
17 conduct by offenders;

18 (6) Collect, evaluate and coordinate information and data related to or produced by all parts of
19 the criminal justice system;

20 (7) Accept gifts and grants and disburse them in the performance of its responsibilities;

21 (8) Study the application of the aggravated murder statutes to identify the frequency with which
22 particular aggravating factors are alleged and proved;

23 (9) Determine whether there is gender or racial bias in the application of the death penalty;

24 (10) **Collect data on the race of individuals who are charged with crimes, and report if**
25 **there is racial bias in the charging process;**

26 (11) **Report on the extent to which the race of the defendant affects pretrial release de-**

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.

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1 **cisions, including decisions on whether the defendant is released on personal recognizance**
2 **and decisions on conditions of release;**

3 **(12) Report whether the race, ethnicity or cultural differences of inmates play a role in**
4 **revocation of parole or post-prison supervision, in probation status or in correction admin-**
5 **istrative processes, including decisions on granting or denying earned time credits;**

6 [(10)] **(13)** If so designated by the Governor, be the agency responsible for the administration
7 of the Drug Control and System Improvement Grant Program as set forth in 42 U.S.C. §3757;

8 [(11)] **(14)** Issue annual state corrections population forecasts, including expected populations
9 of prisons, jails and community corrections caseloads, to be used by:

10 (a) The Department of Corrections in preparing budget requests;

11 (b) The State Sentencing Guidelines Board in considering amendments to sentencing guidelines;
12 and

13 (c) Any other state agency concerned with the effect of offender populations or policy develop-
14 ment on budgeting;

15 [(12)] **(15)** Serve as the state's criminal justice grants authorization clearinghouse as directed;

16 [(13)] **(16)** Conduct joint studies by agreement with other state agencies, boards or commissions
17 on any matters within the jurisdiction of the council;

18 [(14)] **(17)** Assess quarterly the impact of sentencing guidelines, and make recommendations to
19 the Legislative Assembly regarding proposed changes in the criminal code, criminal procedures and
20 any aspects of sentencing that may impede the implementation and effectiveness of the sentencing
21 guidelines;

22 [(15)] **(18)** Assist in maintaining the quality and reliability of data from established criminal
23 justice information systems and promote the development of criminal justice information systems;

24 [(16)] **(19)** Be a depository of federal criminal justice analytical and statistical information, be
25 a center for dissemination of the information to Oregon state and local government agencies and
26 provide Oregon criminal justice analytical and statistical information to federal agencies; and

27 [(17)] **(20)** Report annually to the Chief Justice of the Supreme Court, the President of the Sen-
28 ate, the Speaker of the House of Representatives and the Governor.

29

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

Senate Bill 867

Sponsored by COMMITTEE ON JUDICIARY

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**.

Requires employer to post translated notices of workers' rights under workers' compensation laws in certain circumstances. Extends period for filing workers' compensation claim if employer fails to comply with posting requirement. Requires providing translated claim form in specified instances.

A BILL FOR AN ACT

1
2 Relating to workers' compensation; creating new provisions; and amending ORS 656.056 and 656.265.

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

4 **SECTION 1.** ORS 656.056 is amended to read:

5 656.056. (1) All subject employers shall display in a conspicuous manner about their works, and
6 in a sufficient number of places reasonably to inform their workers of the fact, printed notices fur-
7 nished by the Director of the Department of Consumer and Business Services stating that they
8 are subject to this chapter and the manner of their compliance with this chapter.

9 (2) **A subject employer who knows or should know that the primary language of any of**
10 **the employees of the subject employer is not English must post the notices required by**
11 **subsection (1) of this section in the language or languages of the employees who do not speak**
12 **English as a primary language. A subject employer need not comply with the provisions of**
13 **this subsection unless the director has printed and made available the notices required by**
14 **this subsection.**

15 [(2)] (3) No employer who is not currently a subject employer shall post or permit to remain on
16 or about the place of business or premises of the employer any notice that the employer is subject
17 to, and complying with, this chapter.

18 **SECTION 2.** ORS 656.265 is amended to read:

19 656.265. (1) Notice of an accident resulting in an injury or death shall be given immediately by
20 the worker or a dependent of the worker to the employer, but not later than 30 days after the ac-
21 cident. The employer shall acknowledge forthwith receipt of such notice.

22 (2) The notice need not be in any particular form. However, it shall be in writing and shall ap-
23 prise the employer when and where and how an injury has occurred to a worker. A report or
24 statement secured from a worker, or from the doctor of the worker and signed by the worker, con-
25 cerning an accident which may involve a compensable injury shall be considered notice from the
26 worker and the employer shall forthwith furnish the worker a copy of any such report or statement.

27 (3) Notice shall be given to the employer by mail, addressed to the employer at the last-known
28 place of business of the employer, or by personal delivery to the employer or to a foreman or other
29 supervisor of the employer. If for any reason it is not possible to so notify the employer, notice may
30 be given to the Director of the Department of Consumer and Business Services and referred to

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.

LC 3732

SB 867

1 the insurer or self-insured employer.

2 (4) Failure to give notice as required by this section bars a claim under this chapter unless:

3 (a) The employer had knowledge of the injury or death, or the insurer or self-insured employer
4 has not been prejudiced by failure to receive the notice; or

5 (b) The insurer or self-insured employer has begun payments as required under this chapter; or

6 (c) The notice is given within one year after the date of the accident and the worker or bene-
7 ficiaries of the worker establish in a hearing that the worker had good cause for failure to give
8 notice within 30 days after the accident; or [.]

9 (d) **The notice is given within one year after the date of the accident and the worker or**
10 **beneficiaries of the worker establish in a hearing that the worker’s primary language is not**
11 **English, that the employer knew or should have known that the worker’s primary language**
12 **was not English and that the employer failed to comply with ORS 656.056 (2).**

13 (5) The issue of failure to give notice must be raised at the first hearing on a claim for com-
14 pensation in respect to the injury or death.

15 (6) The director shall promulgate and prescribe uniform forms to be used by workers in report-
16 ing their injuries to their employers. These forms shall be supplied by all employers to injured
17 workers upon request of the injured worker or some other person on behalf of the worker.

18 (7) **The director shall adopt official translations of the forms promulgated under sub-**
19 **section (6) of this section for all languages spoken as a primary language by a substantial**
20 **number of workers in the state. If an employer knows or should know that the primary**
21 **language of an employee of the employer is not English, the employer must supply a trans-**
22 **lated form in the language spoken by the employee as a primary language if the injured**
23 **worker or some other person on behalf of the worker requests a form for reporting an in-**
24 **jury.**

25 (8) Nothing [contained in this section, however, shall defeat] in subsections (6) and (7) of this
26 section defeats the claim of any worker who does not use the suggested form but otherwise sub-
27 stantially complies with this section.

28 **SECTION 3. The amendments to ORS 656.265 by section 2 of this Act, extending the pe-**
29 **riod during which an injured worker or beneficiaries of the worker may file a claim if the**
30 **employer fails to comply with ORS 656.056 (2), apply only to injuries or deaths that occur on**
31 **or after the effective date of this Act.**

32

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

A-Engrossed Senate Bill 868

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Sponsored by COMMITTEE ON JUDICIARY

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.

Allows challenge to juror for cause [*in certain circumstances if juror makes statement that shows prejudice against racial or ethnic group*] **based on actual bias on part of juror in reference to action, party to action, sex of party or racial group.**

A BILL FOR AN ACT

1 Relating to jurors; creating new provisions; and amending ORCP 57 D.

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

3 **SECTION 1.** ORCP 57 D is amended to read:

4 **D. Challenges.**

5 D(1) **Challenges for cause; grounds.** Challenges for cause may be taken on any one or more of
6 the following grounds:

7 D(1)(a) The want of any qualifications prescribed by ORS 10.030 for a person eligible to act as
8 a juror.

9 D(1)(b) The existence of a mental or physical defect which satisfies the court that the challenged
10 person is incapable of performing the duties of a juror in the particular action without prejudice to
11 the substantial rights of the challenging party.

12 D(1)(c) Consanguinity or affinity within the fourth degree to any party.

13 D(1)(d) Standing in the relation of guardian and ward, physician and patient, master and servant,
14 landlord and tenant, or debtor and creditor, to the adverse party; or being a member of the family
15 of, or a partner in business with, or in the employment for wages of, or being an attorney for or a
16 client of, the adverse party; or being surety in the action called for trial, or otherwise, for the ad-
17 verse party.

18 D(1)(e) Having served as a juror on a previous trial in the same action, or in another action
19 between the same parties for the same cause of action, upon substantially the same facts or trans-
20 action.

21 D(1)(f) Interest on the part of the juror in the outcome of the action, or the principal question
22 involved therein.

23 D(1)(g) [*Actual bias, which is the existence of a state of mind on the part of the juror, in reference*
24 *to the action, or to either party, which satisfies the court, in the exercise of a sound discretion, that the*
25 *juror cannot try the issue impartially and without prejudice to the substantial rights of the party*
26 *challenging.*] **Actual bias on the part of a juror. Actual bias is the existence of a state of mind**
27 **on the part of a juror that satisfies the court, in the exercise of sound discretion, that the**
28

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.

LC 3733

A-Eng. SB 868

1 juror cannot try the issue impartially and without prejudice to the substantial rights of the
 2 party challenging the juror. Actual bias may be in reference to: (i) the action; (ii) either
 3 party to the action; (iii) the sex of the party, the party's attorney, a victim or a witness; or
 4 (iv) a racial or ethnic group that the party, the party's attorney, a victim or a witness is a
 5 member of, or is perceived to be a member of. A challenge for actual bias may be taken for the
 6 cause mentioned in this paragraph, but on the trial of such challenge, although it should appear that
 7 the juror challenged has formed or expressed an opinion upon the merits of the cause from what the
 8 juror may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge,
 9 but the court must be satisfied, from all the circumstances, that the juror cannot disregard such
 10 opinion and try the issue impartially.

11 D(2) Peremptory challenges; number. A peremptory challenge is an objection to a juror for
 12 which no reason need be given, but upon which the court shall exclude such juror. Either party shall
 13 be entitled to three peremptory challenges, and no more. Where there are multiple parties plaintiff
 14 or defendant in the case or where cases have been consolidated for trial, the parties plaintiff or
 15 defendant must join in the challenge and are limited to a total of three peremptory challenges, ex-
 16 cept the court, in its discretion and in the interest of justice, may allow any of the parties, single
 17 or multiple, additional peremptory challenges and permit them to be exercised separately or jointly.

18 D(3) Conduct of peremptory challenges. After the full number of jurors have been passed for
 19 cause, peremptory challenges shall be conducted as follows: the plaintiff may challenge one and then
 20 the defendant may challenge one, and so alternating until the peremptory challenges shall be ex-
 21 hausted. After each challenge, the panel shall be filled and the additional juror passed for cause
 22 before another peremptory challenge shall be exercised, and neither party is required to exercise a
 23 peremptory challenge unless the full number of jurors are in the jury box at the time. The refusal
 24 to challenge by either party in the order of alternation shall not defeat the adverse party of such
 25 adverse party's full number of challenges, and such refusal by a party to exercise a challenge in
 26 proper turn shall conclude that party as to the jurors once accepted by that party, and if that par-
 27 ty's right of peremptory challenge be not exhausted, that party's further challenges shall be con-
 28 fined, in that party's proper turn, to such additional jurors as may be called. The court may, for good
 29 cause shown, permit a challenge to be taken to any juror before the jury is completed and sworn,
 30 notwithstanding the juror challenged may have been theretofore accepted, but nothing in this sub-
 31 section shall be construed to increase the number of peremptory challenges allowed.

32 **SECTION 2. The amendments to ORCP 57 D by section 1 of this Act apply only to jurors**
 33 **sworn on or after the effective date of this Act.**

34

68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

A-Engrossed Senate Bill 869

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Sponsored by COMMITTEE ON JUDICIARY

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.

Establishes procedure for objecting to exercise of peremptory challenge when party believes that peremptory challenge is being exercised on basis of juror's **sex, race or ethnicity**. **Requires that party making objection establish prima facie case that adverse party challenged juror on basis of sex, race or ethnicity.**

A BILL FOR AN ACT

1 Relating to jurors; creating new provisions; and amending ORS 136.230 and ORCP 57 D.

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

3 **SECTION 1.** ORCP 57 D is amended to read:

4 **D. Challenges.**

5 D(1) **Challenges for cause; grounds.** Challenges for cause may be taken on any one or more of
6 the following grounds:

7 D(1)(a) The want of any qualifications prescribed by ORS 10.030 for a person eligible to act as
8 a juror.

9 D(1)(b) The existence of a mental or physical defect which satisfies the court that the challenged
10 person is incapable of performing the duties of a juror in the particular action without prejudice to
11 the substantial rights of the challenging party.

12 D(1)(c) Consanguinity or affinity within the fourth degree to any party.

13 D(1)(d) Standing in the relation of guardian and ward, physician and patient, master and servant,
14 landlord and tenant, or debtor and creditor, to the adverse party; or being a member of the family
15 of, or a partner in business with, or in the employment for wages of, or being an attorney for or a
16 client of, the adverse party; or being surety in the action called for trial, or otherwise, for the ad-
17 verse party.

18 D(1)(e) Having served as a juror on a previous trial in the same action, or in another action
19 between the same parties for the same cause of action, upon substantially the same facts or trans-
20 action.

21 D(1)(f) Interest on the part of the juror in the outcome of the action, or the principal question
22 involved therein.

23 D(1)(g) Actual bias, which is the existence of a state of mind on the part of the juror, in refer-
24 ence to the action, or to either party, which satisfies the court, in the exercise of a sound discretion,
25 that the juror cannot try the issue impartially and without prejudice to the substantial rights of the
26 party challenging. A challenge for actual bias may be taken for the cause mentioned in this para-
27

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.

LC 3734

A-Eng. SB 869

1 graph, but on the trial of such challenge, although it should appear that the juror challenged has
2 formed or expressed an opinion upon the merits of the cause from what the juror may have heard
3 or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be
4 satisfied, from all the circumstances, that the juror cannot disregard such opinion and try the issue
5 impartially.

6 D(2) Peremptory challenges; number. A peremptory challenge is an objection to a juror for
7 which no reason need be given, but upon which the court shall exclude such juror. Either party shall
8 be entitled to three peremptory challenges, and no more. Where there are multiple parties plaintiff
9 or defendant in the case or where cases have been consolidated for trial, the parties plaintiff or
10 defendant must join in the challenge and are limited to a total of three peremptory challenges, ex-
11 cept the court, in its discretion and in the interest of justice, may allow any of the parties, single
12 or multiple, additional peremptory challenges and permit them to be exercised separately or jointly.

13 D(3) Conduct of peremptory challenges. After the full number of jurors have been passed for
14 cause, peremptory challenges shall be conducted **by written ballot or outside the presence of the**
15 **jury** as follows: the plaintiff may challenge one and then the defendant may challenge one, and so
16 alternating until the peremptory challenges shall be exhausted. After each challenge, the panel shall
17 be filled and the additional juror passed for cause before another peremptory challenge shall be
18 exercised, and neither party is required to exercise a peremptory challenge unless the full number
19 of jurors are in the jury box at the time. The refusal to challenge by either party in the order of
20 alternation shall not defeat the adverse party of such adverse party's full number of challenges, and
21 such refusal by a party to exercise a challenge in proper turn shall conclude that party as to the
22 jurors once accepted by that party, and if that party's right of peremptory challenge be not ex-
23 hausted, that party's further challenges shall be confined, in that party's proper turn, to such addi-
24 tional jurors as may be called. The court may, for good cause shown, permit a challenge to be taken
25 to any juror before the jury is completed and sworn, notwithstanding the juror challenged may have
26 been theretofore accepted, but nothing in this subsection shall be construed to increase the number
27 of peremptory challenges allowed.

28 D(4) Challenge of peremptory challenge exercised on basis of race, ethnicity or sex.

29 **D(4)(a) A party may not exercise a peremptory challenge on the basis of race, ethnicity**
30 **or sex. Courts shall presume that a peremptory challenge does not violate this paragraph,**
31 **but the presumption may be rebutted in the manner provided by this section.**

32 **D(4)(b) If a party believes that the adverse party is exercising a peremptory challenge**
33 **on a basis prohibited under paragraph (a) of this subsection, the party may object to the**
34 **exercise of the challenge. The objection must be made before the court excuses the juror.**
35 **The objection must be made outside of the presence of potential jurors. The party making**
36 **the objection has the burden of establishing a prima facie case that the adverse party chal-**
37 **lenged the potential juror on the basis of race, ethnicity or sex.**

38 **D(4)(c) If the court finds that the party making the objection has established a prima**
39 **facie case that the adverse party challenged a prospective juror on the basis of race,**
40 **ethnicity or sex, the burden shifts to the adverse party to show that the peremptory chal-**
41 **lenge was not exercised on the basis of race, ethnicity or sex. If the adverse party fails to**
42 **meet the burden of justification as to the questioned challenge, the presumption that the**
43 **challenge does not violate paragraph (a) of this subsection is rebutted.**

44 **D(4)(d) If the court finds that the adverse party challenged a prospective juror on the**
45 **basis of race, ethnicity or sex, the court shall disallow the peremptory challenge.**

A-Eng. SB 869

1 **SECTION 2.** ORS 136.230 is amended to read:

2 136.230. (1) If the trial is upon an accusatory instrument in which one or more of the crimes
3 charged is punishable with imprisonment in a Department of Corrections institution for life or is a
4 capital offense, both the defendant and the state are entitled to 12 peremptory challenges, and no
5 more. In any other trial, both are entitled to six.

6 (2) Peremptory challenges shall be taken in writing by secret ballot as follows:

7 (a) The defendant may challenge two jurors and the state may challenge two, and so alternating,
8 the defendant exercising two challenges and the state two until the peremptory challenges are ex-
9 hausted.

10 (b) After each challenge the panel shall be filled and the additional juror passed for cause before
11 another peremptory challenge is exercised. Neither party shall be required to exercise a peremptory
12 challenge unless the full number of jurors is in the jury box at the time.

13 (c) The refusal to challenge by either party in order of alternation does not prevent the adverse
14 party from exercising that adverse party's full number of challenges, and such refusal on the part
15 of a party to exercise a challenge in proper turn concludes that party as to the jurors once accepted
16 by that party. If that party's right of peremptory challenge is not exhausted, that party's further
17 challenges shall be confined, in that party's proper turn, to such additional jurors as may be called.

18 (3) Notwithstanding subsection (2) of this section, the defendant and the state may stipulate to
19 taking peremptory challenges orally.

20 **(4) Peremptory challenges are subject to ORCP 57 D(4).**

21 **SECTION 3.** The amendments to ORCP 57 D and ORS 136.230 by sections 1 and 2 of this
22 Act apply only to jurors sworn on or after the effective date of this Act.

23

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