

OSB COURT FEES TASK FORCE

INITIAL REPORT

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Executive Summary

The Oregon State Bar (OSB) Board of Governors (BOG) commissioned a task force of attorneys, judges, and trial court administrators to advise the legislative Interim Committee on Justice System Revenues. The charge to the task force was to prepare short-term and long-term recommendations per 2009 HB 2287, the statutory fee structure, and court funding. This report contains the short-term recommendations of the task force, as approved by the BOG.

Key Findings

General Findings

- The courts are a critically important, constitutionally mandated core function of government.
- Courts must be open and accessible to all Oregonians.
- The OSB's highest legislative priority is open and accessible courts.
- Keeping courts open and accessible requires stable and adequate funding.

Specific Findings

- The current statutory fee structure is confusing and complex, even to experienced practitioners.
- Any changes to the fee structure must not impede reasonable access to justice, including access by indigent persons, unrepresented litigants, and middle-income Oregonians.
- The legislature should simplify the current fee structure to make it more predictable and more uniform.
- Any changes to the fee system must maintain adequate funding for services critical to the justice system, such as Legal Aid services.
- Some of the fees enacted in 2009 HB 2287 have created unintended and high transaction costs and/or unduly impaired access to justice, and should be modified or allowed to sunset.
- Court-imposed financial obligations upon conviction of a crime or offense are an important part of the accountability process of the justice system.
- Much of the liquidated and delinquent court-imposed debt cannot be collected and/or is owed to victims of crime, and does not represent a reasonable opportunity to increase revenue to the state or local governments.

Recommendations

- Consolidate many existing fees that occur in the lifetime of a case (e.g., ex parte order and judgment fee, and fees for routine motions) into the filing and first response fees.

- Enact consistent fee amounts for motions and other individual fees, so they are consistent within and among different types of cases.
- Modify the following specific fees:
 - Sunset the \$10 ex parte order and judgment fee. This fee imposes excessive administration costs on litigants and the courts.
 - Establish a statutory cap on fees in cases involving multiple parties and/or large prayer amounts. The current structure has created excessive fees in some cases.
 - Sunset the expunction fee in cases where an arrest occurred but no conviction resulted. Imposing a substantial fee in these cases does not reflect court workload and imposes an unfair burden on persons not convicted of a crime.
 - Restore a statutory limit on the amount retained from release security deposits, but at a higher limit than the previous \$200 limit.
 - Modify the mediation/conciliation fee and law library fee to a fixed amount set by statute, rather than a percentage of the filing fee set by individual counties.
- The legislature should encourage efficient, effective, and fair collection of court-imposed financial obligations, maintain long-term judgments for accountability, and develop a mechanism to classify and categorize debt that can reasonably be expected to be collected.