

# House Bill 2461

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes some new rules for remote location testimony. (Flesch Readability Score: 61.3).

Changes notice requirements and requirements related to facilities and technology for motions to allow remote location testimony.

## A BILL FOR AN ACT

1  
2 Relating to remote location testimony; creating new provisions; and amending ORS 45.400, 107.717  
3 and 163.770.

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

5 **SECTION 1.** ORS 45.400 is amended to read:

6 45.400. (1) A party to any civil proceeding or any proceeding under ORS chapter 419B may move  
7 that the party or any witness for the moving party may give remote location testimony.

8 (2) A party filing a motion under this section must give written notice to all other parties to the  
9 proceeding [*at least 30 days before the trial or hearing at which the remote location testimony will be*  
10 *offered. The court may allow written notice less than 30 days before the trial or hearing for good cause*  
11 *shown*] **sufficiently in advance of the trial or hearing at which the remote location testimony**  
12 **will be offered to allow the nonmoving party to challenge the factors specified in subsection**  
13 **(3)(b) of this section and to establish the factors specified in subsection (3)(c) of this**  
14 **section.**

15 (3)(a) Except as provided under subsection (5) of this section, the court may allow remote lo-  
16 cation testimony under this section upon a showing of good cause by the moving party, unless the  
17 court determines that the use of remote location testimony would result in prejudice to the non-  
18 moving party and that prejudice outweighs the good cause for allowing the remote location testi-  
19 mony.

20 (b) Factors that a court may consider that would support a finding of good cause for the purpose  
21 of a motion under this subsection include:

22 (A) Whether the witness or party might be unavailable because of age, infirmity or mental or  
23 physical illness.

24 (B) Whether the party filing the motion seeks to take the remote location testimony of a witness  
25 whose attendance the party has been unable to secure by process or other reasonable means.

26 (C) Whether a personal appearance by the witness or party would be an undue hardship on the  
27 witness or party.

28 (D) Whether a perpetuation deposition under ORCP 39 I, or another alternative, provides a more  
29 practical means of presenting the testimony.

**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 (E) Any other circumstances that constitute good cause.

2 (c) Factors that a court may consider that would support a finding of prejudice under this sub-  
3 section include:

4 (A) Whether the ability to evaluate the credibility and demeanor of a witness or party in person  
5 is critical to the outcome of the proceeding.

6 (B) Whether the nonmoving party demonstrates that face-to-face cross-examination is necessary  
7 because the issue or issues the witness or party will testify about may be determinative of the out-  
8 come.

9 (C) Whether the exhibits or documents the witness or party will testify about are too voluminous  
10 to make remote location testimony practical.

11 (D) The nature of the proceeding, with due consideration for a person's liberty or parental in-  
12 terests.

13 *[(E) Whether facilities that would permit the taking of remote location testimony are readily avail-  
14 able.]*

15 **(E) Whether reliable facilities and technology that would permit the taking of remote  
16 location testimony are readily available to the court, counsel, parties and the witness.**

17 (F) Whether the nonmoving party demonstrates that other circumstances exist that require the  
18 personal appearance of a witness or party.

19 (4) In exercising its discretion to allow remote location testimony under this section, a court  
20 may authorize telephone or other nonvisual transmission only upon finding that video transmission  
21 is not readily available.

22 (5) The court may not allow use of remote location testimony in a jury trial unless good cause  
23 is shown and there is a compelling need for the use of remote location testimony.

24 (6) A party filing a motion for remote location testimony under this section must pay all costs  
25 of the remote location testimony, including the costs of alternative procedures or technologies used  
26 for the taking of remote location testimony. No part of those costs may be recovered by the party  
27 filing the *[motions]* **motion** as costs and disbursements in the proceeding.

28 (7) This section does not apply to a workers' compensation hearing or to any other administra-  
29 tive proceeding.

30 (8) As used in this section:

31 (a) "Remote location testimony" means live testimony given by a witness or party from a phys-  
32 ical location outside of the courtroom of record via simultaneous electronic transmission.

33 (b) "Simultaneous electronic transmission" means television, telephone or any other form of  
34 electronic communication transmission if the form of transmission allows:

35 (A) The court, the attorneys and the person testifying from a remote location to communicate  
36 with each other during the proceeding;

37 (B) A witness or party who is represented by counsel at the hearing to be able to consult pri-  
38 vately with counsel during the proceeding; and

39 (C) The public to hear and, if the transmission includes a visual image, to see the witness or  
40 party if the public would otherwise have the right to hear and see the witness or party testifying  
41 in the courtroom of record.

42 **SECTION 2.** ORS 107.717 is amended to read:

43 107.717. (1) A party may file a motion under ORS 45.400 requesting that the court allow the  
44 appearance of the party or a witness by telephone or by other two-way electronic communication  
45 device in a proceeding under ORS 107.700 to 107.735.

1 (2) In *[exercising its discretion to allow written notice less than 30 days before the proceeding as*  
2 *required]* **determining whether notice is given sufficiently in advance of the proceeding** under  
3 ORS 45.400 (2), the court shall consider the expedited nature of a proceeding under ORS 107.700 to  
4 107.735.

5 (3) In addition to the factors listed in ORS 45.400 (3)(b) that would support a finding of good  
6 cause, the court shall consider whether the safety or welfare of the party or witness would be  
7 threatened if testimony were required to be provided in person at a proceeding under ORS 107.700  
8 to 107.735.

9 (4) A motion or good cause determination under this section or ORS 45.400 is not required for  
10 ex parte hearings held by telephone under ORS 107.718.

11 **SECTION 3.** ORS 163.770 is amended to read:

12 163.770. (1) A party may file a motion under ORS 45.400 requesting that the circuit court allow  
13 the appearance of the party or a witness by telephone or by other two-way electronic communi-  
14 cation device in a proceeding under ORS 163.760 to 163.777.

15 (2) In determining whether *[to allow written notice less than 30 days before the proceeding]* **notice**  
16 **is given sufficiently in advance of the proceeding** under ORS 45.400 (2), the circuit court shall  
17 consider the expedited nature of a proceeding under ORS 163.760 to 163.777.

18 (3) In addition to the factors listed in ORS 45.400 (3)(b) that would support a finding of good  
19 cause, the circuit court shall consider whether the safety or welfare of the party or witness would  
20 be threatened if testimony were required to be provided in person at a proceeding under ORS  
21 163.760 to 163.777.

22 (4) A motion or good cause determination is not required for ex parte hearings held by telephone  
23 under ORS 163.765.

24 **SECTION 4. The amendments to ORS 45.400, 107.717 and 163.770 by sections 1 to 3 of this**  
25 **2025 Act apply to motions filed under ORS 45.400 on or after the effective date of this 2025**  
26 **Act.**