

COURTS



In 2020, the Supreme Court of the United States in [Ramos v. Louisiana](#), 140 U.S. 1390 (2020), found that guilty verdicts in criminal cases must be a unanimous jury verdict. Separately, the Oregon Supreme Court found in [Busch v. McInnis Waste Systems, Inc.](#), 366 Or. App. 628 (2020) that the statutory cap on the amount of noneconomic damages that could be awarded to an injured party in a bodily injury case deprived the party of their right to a remedy under Article I, Section 10 of the Oregon Constitution. [Senate Bill 193](#) makes statutory revisions in response to these two court decisions. First, it updates [ORS 136.450](#) (2019) to require the unanimous agreement of jurors for a verdict of guilty and the concurrence of at least 10 of 12 jurors for a verdict of not guilty. The measure also removes the statutory cap on noneconomic damages for claims for bodily injury but retains the cap on noneconomic damages for wrongful death claims.

The Legislative Assembly separately considered what factors a court must weigh when awarding attorney fees for a case. Currently a court must consider several factors, including the time required for the representation and the novelty and difficulty of the questions involved, the likelihood that the representation would keep the attorney from taking other cases, the customary fee in the geographic area for similar legal services, and several other factors. [Senate Bill 181](#) requires courts to also consider whether an attorney provided legal services on a pro bono basis or whether the award of attorney fees promotes access to justice.

[Senate Bill 218](#) expands the types of cases for which a court may defer further proceedings and places the person on probation, upon motion of the district attorney and without entering a judgment of guilt, to include any misdemeanors previously prohibited by statute and Class C felonies, if the defendant has been accepted into specialty court.

Currently, implied consent hearings are conducted by telephone or other electronic communication, unless a person or police officer requests that the hearing be conducted in person. In addition, unless there is an agreement between the person and the Oregon Department of Transportation (ODOT) that the hearing be held elsewhere, the hearing must be held either in the county where the alleged offense occurred or within 100 miles of where the alleged offense occurred, as determined by ODOT in rule. These limitations became highlighted because of COVID-19. In response, the Legislative Assembly passed [House Bill 3176](#), which allows the chief administrative law judge to require an implied consent hearing be conducted by telephone or other electronic communication when the judge determines that an in-person hearing would pose a significant risk to health or safety.

See the [2021 Legislative Summary Report](#) for [Courts](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

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