

A-Engrossed
House Bill 2792

Ordered by the House May 25
Including House Amendments dated May 25

Sponsored by Representative BUTLER

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.

Provides that court security improvement plans include justice court facilities. Requires **judicial district** Advisory Committee on Court Security **and Emergency Preparedness** to include justice of peace from each county in district in which justice court is located. **Modifies duties of committee. Modifies duties and powers of county treasurer and presiding judge of judicial district relating to court facilities security account.** Authorizes expenditure of moneys from court facilities security account to provide security for **certain** buildings containing justice court facilities.

Authorizes Chief Justice of Supreme Court to appoint Advisory Committee on State Court Security and Emergency Preparedness. Requires that committee submit to Chief Justice plan for security improvement, emergency preparedness and business continuity for state court buildings and office of State Court Administrator. Specifies other duties.

Establishes State Court Facilities Security Account. Continuously appropriates moneys in account to State Court Administrator for purpose of providing security in state court buildings and office of administrator. Increases unitary assessment amounts and directs court clerk to deposit certain amounts from assessments to credit of State Court Facilities Security Account.

A BILL FOR AN ACT

1
2 Relating to court security; creating new provisions; amending ORS 1.180, 1.182, 137.308, 137.309,
3 166.373 and 414.815; and appropriating money.

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

5 **SECTION 1.** ORS 1.180 is amended to read:

6 1.180. (1) **As used in this section, "court facility" means a state court or justice court**
7 **other than the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State**
8 **Court Administrator.**

9 [(1)] (2) The presiding judge for a judicial district may appoint an Advisory Committee on
10 [State] Court Security **and Emergency Preparedness** for the judicial district. A committee ap-
11 pointed under this section shall consist of:

12 (a) The sheriff of each county in which a court facility is located;

13 (b) The district attorney of each county in which a court facility is located;

14 (c) A member of the local governing body of each county in which a court facility is located,
15 or the member's representative;

16 (d) The president of the county bar association, if any, for each county in which a court facility
17 is located, or the president's representative; [and]

18 (e) **A justice of the peace from each county in the district in which a justice court is lo-**
19 **cated; and**

20 [(e)] (f) The following persons as designated by the presiding judge:

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 (A) The trial court administrator for each county in which a court facility is located; and

2 (B) A judge from each county in which a court facility is located.

3 [(2)] (3) A committee appointed under this section shall meet at the call of the presiding judge
4 that appointed the committee.

5 [(3)] (4) A committee appointed under this section shall submit to the presiding judge of the ju-
6 dicial district a **plan for** *[state]* court security improvement, **emergency preparedness and busi-**
7 **ness continuity** *[plan]* for each building containing a court facility in the county. The plan shall
8 include capital outlay needs and may include recommendations concerning:

9 (a) Security procedures for the transportation and supervision of prisoners for court appearances
10 including, as otherwise allowed by law, the use of video transmission equipment for the appearance
11 of defendants who are in custody;

12 (b) Procedures for the secure handling, transportation and disposal of hazardous substances and
13 contraband in court proceedings;

14 (c) Emergency alarm systems accessible to all court employees;

15 (d) Physical security for judges, *[judges' staffs]* **justices of the peace, staff** and the public;

16 (e) Procedures for emergency evacuation of buildings containing court facilities;

17 (f) Procedures for identifying court security personnel, including a court security officer to be
18 appointed by the presiding judge, who shall be responsible for:

19 (A) The management of the *[state court security improvement]* plan;

20 (B) A regular security inspection of each building containing a *[state]* court facility; and

21 (C) Regular security training of sheriff department, judicial department and district attorney
22 personnel; and

23 (g) Priorities for available court facilities within the building based on the level of security
24 needed.

25 [(4)] (5) The plan may also include:

26 (a) An evaluation of how each of the items listed in subsection [(3)] (4) of this section is being
27 addressed and should be addressed;

28 (b) How practices, facilities and equipment falling below appropriate levels are to be improved;

29 (c) The anticipated cost of improving practices, facilities and equipment that fall below appro-
30 priate levels;

31 (d) The funding source for each improvement; and

32 (e) The time schedule for implementation of improvements.

33 [(5)] (6) Adoption of a plan under this section is subject to the approval of the presiding judge
34 that appointed the committee. The plan may conclude that court facility security *[for the court]* is
35 adequate.

36 [(6)] (7) Implementation of the elements of a plan that have a significant fiscal impact are sub-
37 ject to availability of funding.

38 [(7)] (8) As soon as a plan, revision or amendment is adopted, the presiding judge shall provide
39 the Chief Justice of the *[Oregon]* Supreme Court with a copy of the *[state court security*
40 *improvement]* plan adopted under this section and any revisions or amendments to the plan. **Each**
41 **plan shall be reviewed and revised or amended as needed, not later than June 30 of each**
42 **odd-numbered year.**

43 [(8)] (9) Except as provided in this subsection, *[state court security improvement]* plans **prepared**
44 **under this section** are confidential and need not be disclosed under the provisions of ORS 192.410
45 to 192.505. The presiding judge of a judicial district, with the concurrence of all sheriffs for the

1 counties of the district, may authorize the disclosure of all or part of a *[state court security]* plan
 2 **prepared under this section** if the judge determines that the interest of the public would be served
 3 by the disclosure and that the disclosure will not impair the integrity of the plan. Records of
 4 expenditures for a *[state]* court security plan and records of equipment purchased under the plan are
 5 not confidential under the provisions of this subsection, and are subject to disclosure as public re-
 6 cords under the provisions of ORS 192.410 to 192.505.

7 **SECTION 2.** ORS 1.182 is amended to read:

8 1.182. (1) The county treasurer shall deposit moneys received under ORS 137.308 (2) into a court
 9 facilities security account maintained by the county treasurer. The following apply to the account:

10 (a) The moneys in the account and interest upon the account are reserved for the purpose of
 11 providing security in buildings that contain state court **or justice court** facilities **other than the**
 12 **Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Adminis-**
 13 **trator** located within the county.

14 (b) Expenditures by the county governing body from the court facilities security account shall
 15 be made only for developing or implementing a **plan for** *[state]* court security improvement, **emer-**
 16 **gency preparedness and business continuity** *[plan adopted]* under ORS 1.180.

17 (c) Moneys deposited in the account under ORS 137.308 (2) and expended under the provisions
 18 of this section shall be in addition to any other moneys expended by the county on court facilities
 19 security programs and personnel. A county shall not reduce other expenditures on court facilities
 20 security programs and personnel by reason of the additional moneys provided under ORS 137.308 (2).

21 (d) **The county treasurer may charge against the court facilities security account an**
 22 **administrative fee for the actual costs associated with maintaining the account. The total**
 23 **administrative fees charged each year may not exceed five percent of the moneys received**
 24 **under ORS 137.308 (2) for that year.**

25 (e) **The county treasurer shall provide to the county governing body, the Advisory Com-**
 26 **mittee on Court Security and Emergency Preparedness and the presiding judge of the judicial**
 27 **district at least quarterly a financial report showing all revenues, deposits and expenditures**
 28 **from the court facilities security account maintained by the county treasurer. The county**
 29 **treasurer may charge against the court facilities security account the actual costs associ-**
 30 **ated with providing financial reports under this paragraph.**

31 (f) **The presiding judge of the judicial district shall provide to the Chief Justice of the**
 32 **Supreme Court a financial report showing all revenues, deposits and expenditures from the**
 33 **court facilities security account for each fiscal year. The report shall be submitted to the**
 34 **Chief Justice not later than August 30 of each year.**

35 (2) Except as otherwise provided in subsection (3) of this section, a county may not reduce its
 36 actual operating expenditures on court facilities security programs and personnel, including funds
 37 from all local sources, exclusive of state and federal funds and other short term special funding,
 38 below the level of such expenditures in the preceding fiscal year beginning with the 1992-1993 fiscal
 39 year.

40 (3) A county may reduce the operating expenditures described in subsection (2) of this section
 41 if the reduction is in an amount no greater than the average reduction in general fund commitment
 42 to all county agencies during the fiscal period.

43 **SECTION 3.** (1) **The Chief Justice of the Supreme Court may appoint an Advisory Com-**
 44 **mittee on State Court Security and Emergency Preparedness for the Supreme Court, Court**
 45 **of Appeals, Oregon Tax Court and office of the State Court Administrator.**

1 (2) A committee appointed under this section shall meet at the call of the Chief Justice.

2 (3) A committee appointed under this section shall submit to the Chief Justice a state
3 plan for state court security improvement, emergency preparedness and business continuity
4 for each building containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax
5 Court or office of the State Court Administrator. The plan shall include capital outlay needs
6 and may include recommendations concerning:

7 (a) Procedures for the secure handling, transportation and disposal of hazardous sub-
8 stances and contraband in court proceedings;

9 (b) Emergency alarm systems accessible to all court employees;

10 (c) Physical security for judges, staff and the public;

11 (d) Procedures for emergency evacuation of buildings containing or utilized by the Su-
12 preme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator;

13 (e) Procedures for identifying court security personnel, including a court security officer
14 to be appointed by the Chief Justice, who shall be responsible for:

15 (A) The management of the plan;

16 (B) A regular security inspection of each building containing or utilized by the Supreme
17 Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator; and

18 (C) Regular security training of sheriff's department, judicial department and district
19 attorney personnel; and

20 (f) Priorities for available court facilities within the building based on the level of secu-
21 rity needed.

22 (4) The plan may also include:

23 (a) An evaluation of how each of the items listed in subsection (3) of this section is being
24 addressed and should be addressed;

25 (b) How practices, facilities and equipment falling below appropriate levels are to be im-
26 proved;

27 (c) The anticipated cost of improving practices, facilities and equipment that fall below
28 appropriate levels;

29 (d) The funding source for each improvement; and

30 (e) The time schedule for implementation of improvements.

31 (5) Adoption of a plan under this section is subject to the approval of the Chief Justice.
32 The plan may conclude that state court facility security is adequate.

33 (6) Implementation of the elements of a plan that have a significant fiscal impact are
34 subject to availability of funding.

35 (7) The plan adopted under this section shall be reviewed and revised or amended as
36 needed, not later than June 30 of each odd-numbered year.

37 (8) Except as provided in this subsection, a plan prepared under this section is confiden-
38 tial and need not be disclosed under the provisions of ORS 192.410 to 192.505. The Chief Jus-
39 tice may authorize the disclosure of all or part of a plan prepared under this section if the
40 Chief Justice determines that the interest of the public would be served by the disclosure
41 and that the disclosure will not impair the integrity of the plan. Records of expenditures for
42 a state court security plan and records of equipment purchased under the plan are not con-
43 fidential under the provisions of this subsection, and are subject to disclosure as public re-
44 cords under the provisions of ORS 192.410 to 192.505.

45 **SECTION 4.** (1) The State Court Facilities Security Account is established separate and

1 **distinct from the General Fund. The account consists of moneys deposited to the credit of**
2 **the account under ORS 137.309 (7). Interest earned by the State Court Facilities Security**
3 **Account shall be credited to the account. Moneys in the account are continuously appro-**
4 **propriated to the State Court Administrator for the purpose of providing security in buildings**
5 **that contain or are utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or**
6 **office of the State Court Administrator as described under section 3 of this 2005 Act.**

7 **(2) Expenditures by the State Court Administrator from the State Court Facilities Secu-**
8 **urity Account shall be made only for:**

9 **(a) Developing or implementing a plan for state court security improvement, emergency**
10 **preparedness and business continuity under section 3 of this 2005 Act; and**

11 **(b) Statewide training on state court security.**

12 **(3) The State Court Administrator shall provide to the Chief Justice of the Supreme**
13 **Court at least quarterly a financial report showing all revenues, deposits and expenditures**
14 **from the State Court Facilities Security Account maintained by the State Court Adminis-**
15 **trator.**

16 **SECTION 5.** ORS 137.308 is amended to read:

17 137.308. (1) The county treasurer shall deposit 60 percent of the moneys received under ORS
18 137.309 (6), **(8) and (9)** [*to (8)*] into the general fund of the county to be used for the purpose of
19 planning, operating and maintaining county juvenile and adult corrections programs and facilities
20 and drug and alcohol programs approved by the Governor's Council on Alcohol and Drug Abuse
21 Programs. Expenditure by the county of the funds described in this subsection shall be made in a
22 manner that is consistent with the approved community corrections plan for that county; however,
23 a county may not expend more than 50 percent of the funds on the construction or operation of a
24 county jail. Prior to budgeting the funds described in this subsection, a county shall consider any
25 comments received from, and upon request shall consult with, the governing body of a city that
26 forwards assessments under ORS 137.307 (1991 Edition) concerning the proposed uses of the funds.

27 (2) The county treasurer shall deposit 40 percent of the moneys received under ORS 137.309
28 (6), **(8) and (9)** [*to (8)*] into the county's court facilities security account established under ORS
29 1.182.

30 **SECTION 6.** ORS 137.309 is amended to read:

31 137.309. (1) Except as provided in subsection (4) of this section, whenever a circuit or municipal
32 court or a justice of a justice court imposes a sentence of a fine, term of imprisonment, probation
33 or any combination thereof, including a sentence imposed and thereafter suspended, as a penalty for
34 an offense as defined in ORS 161.505, excluding parking violations, an assessment in addition to such
35 sentence shall be collected.

36 (2) The assessment is not part of the penalty or in lieu of any part thereof. The amount of the
37 assessment shall be as follows:

38 (a) \$5, when the fine or forfeiture is \$5 to \$14.99.

39 (b) [~~\$12~~] **\$15**, when the fine or forfeiture is \$15 to \$49.99.

40 (c) [~~\$14~~] **\$18**, when the fine or forfeiture is \$50 to \$99.99.

41 (d) [~~\$20~~] **\$25**, when the fine or forfeiture is \$100 to \$249.99.

42 (e) [~~\$24~~] **\$30**, when the fine or forfeiture is \$250 to \$499.99.

43 (f) [~~\$59~~] **\$66**, when the fine or forfeiture is \$500 or more.

44 (3) Assessments imposed under subsections (1) to (5) of this section shall be collected as provided
45 in subsections (6) to [~~(8)~~] **(9)** of this section.

1 (4) The court is not required to impose the assessment, or a part of the assessment, if it finds
2 that the defendant is indigent or that imposition of the assessment would constitute an undue
3 hardship.

4 (5) Payment to a court shall not be credited to the assessment described in subsections (1) to
5 (5) of this section until all other fines, fees and assessments ordered by the court have been paid.

6 (6) Except as provided in [*subsection (7)*] **subsections (7) and (8)** of this section, amounts paid
7 for the assessment imposed by this section must be transferred by the court to the county treasurer
8 of the county in which the court is located not later than the last day of the month immediately
9 following the month in which the amounts are collected.

10 **(7) Prior to making payment to the county treasurer as provided in subsections (6) and**
11 **(9) of this section, the clerk of a circuit, municipal or justice court:**

12 **(a) Shall withhold and deposit in the State Treasury to the credit of the State Court Fa-**
13 **cilities Security Account the following amounts:**

14 **(A) \$3, when the assessment is \$15.**

15 **(B) \$4, when the assessment is \$18.**

16 **(C) \$5, when the assessment is \$25.**

17 **(D) \$6, when the assessment is \$30.**

18 **(E) \$7, when the assessment is \$66.**

19 **(b) May withhold an amount equal to the reasonable costs incurred by the clerk in col-**
20 **lection and distribution of the assessment.**

21 [*(7)*] **(8) Prior to making payment to the county treasurer as provided in subsections (6) and**
22 [*(8)*] **(9) of this section, the clerk of a circuit, municipal or justice court:**

23 **(a) Shall withhold and deposit in the State Treasury to the credit of the Law Enforcement**
24 **Medical Liability Account the following amounts:**

25 **(A) \$1, when the assessment is [*\$12 or \$14*] \$15 or \$18.**

26 **(B) \$2, when the assessment is [*\$20 or \$24*] \$25 or \$30.**

27 **(C) \$5, when the assessment is [*\$59*] \$66.**

28 **(b) May withhold an amount equal to the reasonable costs incurred by the clerk in collection**
29 **and distribution of the assessment.**

30 [*(8)*] **(9) A city that lies in more than one county shall pay the assessments it collects to each**
31 **county in proportion to the percent of the population of the city that resides in each county.**

32 **SECTION 7. ORS 166.373 is amended to read:**

33 166.373. (1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this
34 section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005,
35 may possess a weapon in a court facility if the officer:

36 (a) Is acting in an official capacity and is officially on duty;

37 (b) Is carrying a weapon that the employing agency of the officer has authorized the officer to
38 carry; and

39 (c) Is in compliance with any security procedures established under subsections (3) and (4) of
40 this section.

41 (2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a
42 courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom
43 must be posted outside the entrance to the courtroom.

44 (3) A presiding judge of a judicial district **or the Chief Justice of the Supreme Court** may
45 establish procedures regulating the possession of a weapon in a court facility by a peace officer or

1 a federal officer subject to the following:

2 (a) The procedures must be established through a **plan for** *[state]* court security improvement,
3 **emergency preparedness and business continuity** *[plan]* under ORS 1.180 **or section 3 of this**
4 **2005 Act**; and

5 (b) Notice of the procedures must be posted at the entrance to the court facility, or at an en-
6 trance for peace officers or federal officers if the entrance is separate from the entrance to the court
7 facility, and at a security checkpoint in the court facility.

8 (4) A judge may establish procedures regulating the possession of a weapon in a courtroom by
9 a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon
10 by an officer must be posted outside the entrance to the courtroom.

11 **SECTION 8.** ORS 414.815 is amended to read:

12 414.815. (1) The Law Enforcement Medical Liability Account is established separate and distinct
13 from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys
14 in the Law Enforcement Medical Liability Account are appropriated continuously to the Department
15 of Human Services to pay expenses in administering the account and paying claims out of the ac-
16 count as provided in ORS 414.807.

17 (2) The liability of the Law Enforcement Medical Liability Account is limited to funds accrued
18 to the account from assessments collected under ORS 137.309 (6), **(8) or (9)** *[to (8)]*, or collected from
19 individuals under ORS 414.805.

20 (3) The Department of Human Services may contract with persons experienced in medical claims
21 processing to provide claims processing for the account.

22 (4) The Department of Human Services shall adopt rules to implement administration of the Law
23 Enforcement Medical Liability Account including, but not limited to, rules that establish reasonable
24 deadlines for submission of claims.

25 (5) Each biennium, the Department of Human Services shall submit a report to the Legislative
26 Assembly regarding the status of the Law Enforcement Medical Liability Account. Within 30 days
27 of the convening of each regular legislative session, the department shall submit the report to the
28 chair of the Senate Judiciary Committee and the chair of the House Judiciary Committee. The re-
29 port shall include, but is not limited to, the number of claims submitted and paid during the
30 biennium and the amount of money in the fund at the time of the report.

31 **SECTION 9.** The amendments to ORS 137.309 by section 6 of this 2005 Act apply to judg-
32 **ments entered on or after the effective date of this 2005 Act.**

33