

**Enrolled**  
**House Bill 2792**

Sponsored by Representative BUTLER

CHAPTER .....

AN ACT

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

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

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

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

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

- (a) The sheriff of each county in which a court facility is located;
- (b) The district attorney of each county in which a court facility is located;
- (c) A member of the local governing body of each county in which a court facility is located, or the member’s representative;
- (d) The president of the county bar association, if any, for each county in which a court facility is located, or the president’s representative; [and]

**(e) A justice of the peace from each county in the district in which a justice court is located; and**

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

- (A) The trial court administrator for each county in which a court facility is located; and
- (B) A judge from each county in which a court facility is located.

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

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

- (a) Security procedures for the transportation and supervision of prisoners for court appearances including, as otherwise allowed by law, the use of video transmission equipment for the appearance of defendants who are in custody;
- (b) Procedures for the secure handling, transportation and disposal of hazardous substances and contraband in court proceedings;
- (c) Emergency alarm systems accessible to all court employees;
- (d) Physical security for judges, [judges’ staffs] **justices of the peace, staff** and the public;

(e) Procedures for emergency evacuation of buildings containing court facilities;  
(f) Procedures for identifying court security personnel, including a court security officer to be appointed by the presiding judge, who shall be responsible for:

(A) The management of the [state court security improvement] plan;  
(B) A regular security inspection of each building containing a [state] court facility; and  
(C) Regular security training of sheriff department, judicial department and district attorney personnel; and

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

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

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

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

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

(d) The funding source for each improvement; and

(e) The time schedule for implementation of improvements.

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

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

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

[(8)] (9) Except as provided in this subsection, [state court security improvement] plans **prepared under this section** are confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The presiding judge of a judicial district, with the concurrence of all sheriffs for the counties of the district, may authorize the disclosure of all or part of a [state court security] plan **prepared under this section** if the judge determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a [state] court security plan and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505.

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

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

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

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

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

**(d) The county treasurer may charge against the court facilities security account an administrative fee for the actual costs associated with maintaining the account. The total**

administrative fees charged each year may not exceed five percent of the moneys received under ORS 137.308 (2) for that year.

(e) The county treasurer shall provide to the county governing body, the Advisory Committee on Court Security and Emergency Preparedness and the presiding judge of the judicial district at least quarterly a financial report showing all revenues, deposits and expenditures from the court facilities security account maintained by the county treasurer. The county treasurer may charge against the court facilities security account the actual costs associated with providing financial reports under this paragraph.

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

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

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

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

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

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

**(a) Procedures for the secure handling, transportation and disposal of hazardous substances and contraband in court proceedings;**

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

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

**(d) Procedures for emergency evacuation of buildings containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator;**

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

**(A) The management of the plan;**

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

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

**(f) Priorities for available court facilities within the building based on the level of security needed.**

**(4) The plan may also include:**

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

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

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

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

- (e) The time schedule for implementation of improvements.
- (5) Adoption of a plan under this section is subject to the approval of the Chief Justice. The plan may conclude that state court facility security is adequate.
- (6) Implementation of the elements of a plan that have a significant fiscal impact are subject to availability of funding.

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

(8) Except as provided in this subsection, a plan prepared under this section is confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The Chief Justice may authorize the disclosure of all or part of a plan prepared under this section if the Chief Justice determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a state court security plan and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505.

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

(2) Expenditures by the State Court Administrator from the State Court Facilities Security Account shall be made only for:

- (a) Developing or implementing a plan for state court security improvement, emergency preparedness and business continuity under section 3 of this 2005 Act; and
- (b) Statewide training on state court security.

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

(4) It is the intent of the Legislative Assembly that any amounts in the State Court Facilities Security Account that are not needed for the purposes specified in subsection (2) of this section be used to fund plans for security improvement, emergency preparedness and business continuity in circuit courts, justice courts and municipal courts.

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

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

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

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

137.309. (1) Except as provided in subsection (4) of this section, whenever a circuit or municipal court or a justice of a justice court imposes a sentence of a fine, term of imprisonment, probation

or any combination thereof, including a sentence imposed and thereafter suspended, as a penalty for an offense as defined in ORS 161.505, excluding parking violations, an assessment in addition to such sentence shall be collected.

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

- (a) \$5, when the fine or forfeiture is \$5 to \$14.99.
- (b) [~~\$12~~] **\$15**, when the fine or forfeiture is \$15 to \$49.99.
- (c) [~~\$14~~] **\$18**, when the fine or forfeiture is \$50 to \$99.99.
- (d) [~~\$20~~] **\$25**, when the fine or forfeiture is \$100 to \$249.99.
- (e) [~~\$24~~] **\$30**, when the fine or forfeiture is \$250 to \$499.99.
- (f) [~~\$59~~] **\$66**, when the fine or forfeiture is \$500 or more.

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

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

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

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

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

**(a) Shall withhold and deposit in the State Treasury to the credit of the State Court Facilities Security Account the following amounts:**

- (A) \$3, when the assessment is \$15.**
- (B) \$4, when the assessment is \$18.**
- (C) \$5, when the assessment is \$25.**
- (D) \$6, when the assessment is \$30.**
- (E) \$7, when the assessment is \$66.**

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

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

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

- (A) \$1, when the assessment is [~~\$12 or \$14~~] **\$15 or \$18.**
- (B) \$2, when the assessment is [~~\$20 or \$24~~] **\$25 or \$30.**
- (C) \$5, when the assessment is [~~\$59~~] **\$66.**

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

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

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

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

- (a) Is acting in an official capacity and is officially on duty;
- (b) Is carrying a weapon that the employing agency of the officer has authorized the officer to carry; and

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2, chapter 604, Oregon Laws 2005 (Enrolled House Bill 5146), for the biennium beginning July 1, 2005, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Judicial Department, is increased by \$139,671 for the purposes described in section 4 (2) of this 2005 Act.**

**SECTION 10.** The amendments to ORS 137.309 by section 6 of this 2005 Act apply to judgments entered on or after the effective date of this 2005 Act.

**Passed by House August 2, 2005**

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Chief Clerk of House

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Speaker of House

**Passed by Senate August 4, 2005**

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President of Senate

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

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Secretary of State