

A-Engrossed
House Bill 3497

Ordered by the House July 1
Including House Amendments dated July 1

Sponsored by COMMITTEE ON JUDICIARY (at the request of Representative Wayne Scott, Representative Wayne Krieger, Senator Ginny Burdick, Senator Avel Gordly)

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.

Establishes priority of allocations from Criminal Fine and Assessment Account. Eliminates Criminal Fine and Assessment Public Safety Fund.

Takes effect July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to Criminal Fine and Assessment Account; creating new provisions; amending ORS 108.662,
3 135.280, 137.300, 147.227, 305.830 and 802.155; repealing ORS 137.302; and prescribing an effective
4 date.

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

6 **SECTION 1. The Legislative Assembly finds that:**

7 **(1) Systems critical components of the Oregon criminal justice system exist that require**
8 **the highest priority considerations for funding from the Criminal Fine and Assessment Ac-**
9 **count.**

10 **(2) The systems critical components of the Oregon criminal justice system are interre-**
11 **lated and essential to the initiation and successful conclusion of criminal investigations.**

12 **(3) The interests of victims of crime and other Oregonians are advanced by the ability**
13 **of the public safety community to respond professionally to reports of criminal activity and**
14 **to successfully investigate criminal cases in a manner that protects the constitutional rights**
15 **of all Oregonians.**

16 **(4) The effective training of police officers, corrections officers, parole and probation of-**
17 **ficers and other first responders increases the likelihood that crimes will be solved quickly**
18 **and that the needs of victims of crime will be met.**

19 **(5) The collection of evidence at crime scenes, the forensic processing of the evidence by**
20 **qualified, well-trained technicians and the work of medical examiners are critical statewide**
21 **functions that allow all Oregonians an equal opportunity to justice.**

22 **(6) The collection of criminal information such as that retained in the Law Enforcement**
23 **Data System enhances the ability of investigators to identify criminals and the unnamed**
24 **victims of violent crimes.**

25 **(7) Timely intervention on behalf of victims of crime through effective assistance pro-**
26 **grams makes recovery from victimization possible and is necessary to the well-being of**
27 **Oregonians adversely affected by violent crime.**

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 **SECTION 2.** ORS 137.300 is amended to read:

2 137.300. (1) The Criminal Fine and Assessment Account is established in the General Fund of
3 the State Treasury. All moneys in the account are **continuously** appropriated [*continuously*] **to the**
4 **Department of Revenue** to be distributed by the Department of Revenue [*as provided in subsection*
5 *(2) of this section*] **according to allocations made by the Legislative Assembly.** The Department
6 of Revenue shall keep a record of moneys transferred into and out of the account. The Department
7 of Revenue shall report monthly to the Attorney General the amount of moneys received from the
8 state courts in each county and from each city court.

9 [(2) *For biennia beginning on and after July 1, 2003, the Department of Revenue shall distribute*
10 *moneys in the account to the General Fund to be used for general governmental expenses and to the*
11 *Criminal Fine and Assessment Public Safety Fund established in ORS 137.302 according to allocations*
12 *made by the Legislative Assembly and as necessary under ORS 137.302 (5).]*

13 **(2) The Legislative Assembly shall allocate moneys in the account according to the fol-**
14 **lowing priority:**

15 **(a) Public safety standards, training and facilities;**

16 **(b) Criminal injuries compensation and assistance to victims of crime and children rea-**
17 **sonably suspected of being victims of crime;**

18 **(c) Forensic services of the Oregon State Police including, but not limited to, services**
19 **of the State Medical Examiner; and**

20 **(d) Maintenance and operation of the Law Enforcement Data System.**

21 **(3) Moneys in the account may not be allocated for:**

22 **(a) The payment of debt service obligations; or**

23 **(b) Any purpose other than those listed in subsection (2) of this section.**

24 **(4) The Department of Revenue shall deposit in the General Fund all moneys remaining**
25 **in the account after the distributions required by subsections (1) and (2) of this section have**
26 **been made.**

27 [(3)] **(5)** The Department of Revenue shall establish by rule a process for distributing
28 [*available*] moneys in the [*Criminal Fine and Assessment*] account.

29 [(4)] **(6)** The Department of Justice shall report monthly to the Department of Revenue the
30 amount of moneys ordered to be applied to child support under ORS 135.280.

31 **SECTION 3. ORS 137.302 is repealed.**

32 **SECTION 4. On the effective date of this 2005 Act, all moneys remaining in the Criminal**
33 **Fine and Assessment Public Safety Fund are transferred to the Criminal Fine and Assess-**
34 **ment Account.**

35 **SECTION 5.** ORS 135.280 is amended to read:

36 135.280. (1) Upon failure of a person to comply with any condition of a release agreement or
37 personal recognizance, the court having jurisdiction may, in addition to any other action provided
38 by law, issue a warrant for the arrest of the person at liberty upon a personal recognizance, condi-
39 tional or security release.

40 (2) A warrant issued under subsection (1) of this section by a municipal judge may be executed
41 by any peace officer authorized to execute arrest warrants.

42 (3) If the defendant does not comply with the conditions of the release agreement, the court
43 having jurisdiction shall enter an order declaring the entire security amount to be forfeited. Notice
44 of the order of forfeiture shall be given forthwith by personal service, by mail or by such other
45 means as are reasonably calculated to bring to the attention of the defendant and, if applicable, of

1 the sureties the order of forfeiture. If, within 30 days after the court declares the forfeiture, the
 2 defendant does not appear or satisfy the court having jurisdiction that appearance and surrender
 3 by the defendant was, or still is, impossible and without fault of the defendant, the court shall enter
 4 judgment for the state, or appropriate political subdivision thereof, against the defendant and, if
 5 applicable, the sureties for the entire security amount set under ORS 135.265 and the costs of the
 6 proceedings. At any time before or after entry of the judgment, the defendant or the sureties may
 7 apply to the court for a remission of the forfeiture or to modify or set aside the judgment. The court,
 8 upon good cause shown, may remit the forfeiture or any part thereof or may modify or set aside the
 9 judgment as in other criminal cases, except the portion of the security amount that the court or-
 10 dered to be applied to child support under subsection (4) of this section, as the court considers
 11 reasonable under the circumstances of the case. The court shall adopt procedures to ensure that the
 12 amount deposited under ORS 135.265 is available for a reasonable period of time for disposition un-
 13 der subsection (4) of this section.

14 (4) After entry of a judgment for the state, the court, upon a motion filed under ORS 25.715,
 15 may order that a portion of the security amount be applied to any unsatisfied child support award
 16 owed by the defendant and to provide security for child support payments in accordance with ORS
 17 25.230. The portion of the security amount that may be applied to the child support award:

18 (a) Is limited to the amount deposited under ORS 135.265;

19 (b) May not exceed [*the percentage*] **66 percent** of the **entire security** amount [*designated for*
 20 *distribution to the General Fund had the deposit been transferred to the Criminal Fine and Assessment*
 21 *Account as provided in subsection (5) of this section*] **set under ORS 135.265**; and

22 (c) Does not reduce the money award in the judgment entered under subsection (3) of this sec-
 23 tion that is owed to the state.

24 (5) When judgment is entered in favor of the state, or any political subdivision of the state, on
 25 any security given for a release, the judgment may be enforced as a judgment in a civil action. If
 26 entered in circuit court, the judgment shall be entered in the register, and the clerk of the court
 27 shall note in the register that the judgment creates a judgment lien. The district attorney, county
 28 counsel or city attorney may have execution issued on the judgment and deliver same to the sheriff
 29 to be executed by levy on the deposit or security amount made in accordance with ORS 135.265, or
 30 may collect the judgment as otherwise provided by law. The proceeds of any execution or collection
 31 shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corpo-
 32 ration wherein the security was taken if the offense was defined by an ordinance of a political
 33 subdivision of this state, or paid into the treasury of the county wherein the security was taken if
 34 the offense was defined by a statute of this state and the judgment was entered by a justice court,
 35 or paid over as directed by the State Court Administrator for deposit in the Criminal Fine and As-
 36 sessment Account created under ORS 137.300, if the offense was defined by a statute of this state
 37 and the judgment was entered by a circuit court. The provisions of this section shall not apply to
 38 base fine amounts deposited upon appearance under ORS 153.061.

39 (6) When the judgment of forfeiture is entered, the security deposit or deposit with the clerk is,
 40 by virtue of the judgment alone and without requiring further execution, forfeited to and may be
 41 kept by the state or its appropriate political subdivision. Except as provided in subsection (4) of this
 42 section, the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining on the
 43 judgment and shall cause the amount on deposit to be transferred to the revenue account of the
 44 state or political subdivision thereof entitled to receive the proceeds of execution under this section.

45 (7) The stocks, bonds, personal property and real property shall be sold in the same manner as

1 in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court
2 costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment
3 shall be paid into the treasury of the municipal corporation wherein the security was taken if the
4 offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury
5 of the county wherein the security was taken if the offense was defined by a statute of this state
6 and the judgment was entered by a justice court, or deposited in the General Fund available for
7 general governmental expenses if the offense was defined by a statute of this state and the judgment
8 was entered by a circuit court. The balance shall be returned to the owner. The real property sold
9 may be redeemed in the same manner as real estate may be redeemed after judicial or execution
10 sales in civil actions.

11 **SECTION 6.** ORS 108.662 is amended to read:

12 108.662. Grants awarded through funding from the Criminal Fine and Assessment [*Public Safety*
13 *Fund*] **Account** for domestic violence programs shall be used to support direct services, with no
14 more than five percent of each grant to be spent for administration.

15 **SECTION 7.** ORS 147.227 is amended to read:

16 147.227. (1) The Attorney General or the Attorney General's designee shall disburse up to one-
17 half of the moneys that the Criminal Injuries Compensation Account receives from the Criminal Fine
18 and Assessment [*Public Safety Fund*] **Account** to counties and cities where prosecuting attorneys
19 maintain comprehensive victims' assistance programs approved by the Attorney General or the At-
20 torney General's designee. Those counties and cities shall provide the moneys to the prosecuting
21 attorney therein to be used exclusively for the comprehensive victims' assistance program. Pursuant
22 to consultation with a three member advisory committee, which the Attorney General shall establish
23 administratively, and which shall consist of a representative from the Attorney General's Office, the
24 Oregon District Attorneys Association and a prosecutor's victim assistance program, the Attorney
25 General shall adopt rules for equitable distribution of these moneys among participating counties
26 and cities.

27 (2) To qualify for approval under this section, a comprehensive victims' assistance program shall
28 not restrict services only to victims or witnesses of a particular type of crime, but shall provide
29 services to victims and witnesses generally. The program must also, in the determination of the
30 Attorney General or the Attorney General's designee, substantially accomplish the following:

31 (a) Provide comprehensive services to victims and witnesses of all types of crime with particular
32 emphasis on serious crimes against persons and property, including, but not limited to:

33 (A) Informing victims and witnesses of their case status and progress;

34 (B) Performing advocate duties for victims within the criminal justice system;

35 (C) Assisting victims in recovering property damaged or stolen and in obtaining restitution or
36 compensation for medical and other expenses incurred as a result of the criminal act;

37 (D) Preparing victims for pending court hearings by informing them of procedures involved;

38 (E) Accompanying victims to court hearings;

39 (F) Involving victims, when possible, in the decision-making process in the criminal justice sys-
40 tem;

41 (G) Assisting victims in obtaining the return of property held as evidence;

42 (H) Assisting victims with personal logistical problems related to court appearances; and

43 (I) Developing community resources to assist victims of crime;

44 (b) Be administered by the district attorney of the county or city attorney of the city;

45 (c) Assist victims of crimes in the preparation and presentation of claims against the Criminal

1 Injuries Compensation Account; and

2 (d) Generally encourage and facilitate testimony by victims of and witnesses to criminal conduct.

3 (3) If a proposed victims' assistance program, although not substantially comprising all elements
4 described in subsection (2) of this section, nevertheless comprises a significant portion thereof and
5 if, in the determination of the Attorney General or the Attorney General's designee thereof, it would
6 not be practicable at the current time for the district attorney or city attorney to establish a more
7 comprehensive program, the Attorney General or the Attorney General's designee thereof may
8 qualify the program under this section on a temporary basis and subject to such conditions as the
9 Attorney General or the designee shall impose upon the program.

10 **SECTION 8.** ORS 305.830 is amended to read:

11 305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts
12 under ORS 137.295 shall be deposited in a suspense account established under ORS 293.445 for the
13 purpose of receiving criminal fines and assessments.

14 (2) In carrying out its duties under this section, the Department of Revenue shall have access
15 to the records and dockets of those courts charged with the duty to transfer moneys to the depart-
16 ment under ORS 137.295.

17 (3) The Department of Revenue may retain from the funds transferred under ORS 137.295 an
18 amount not to exceed two percent annually for its actual costs of collection and disbursement of
19 funds under this section, including the cost of all examinations, investigations and searches, and of
20 all traveling and other expenses in connection therewith. The department shall deposit the net
21 amount of moneys in the suspense account described in subsection (1) of this section into the
22 Criminal Fine and Assessment Account for distribution as provided in ORS 137.300 [*and 137.302*].

23 (4) All judicial, municipal and county officers shall cooperate with the Department of Revenue
24 with respect to the collections, searches and investigations and shall furnish the Department of
25 Revenue with any information contained in any of the records under their respective custodies re-
26 lating thereto.

27 (5) The Department of State Police shall cooperate in the investigation of fines, penalties and
28 forfeitures.

29 **SECTION 9.** ORS 802.155 is amended to read:

30 802.155. (1) There is created the Safety Education Fund, separate and distinct from the General
31 Fund. Interest earned by the fund shall be credited to the fund.

32 (2) Moneys deposited in the Safety Education Fund from the Criminal Fine and Assessment
33 [*Public Safety Fund*] **Account** are continuously appropriated to the office of the manager of the
34 Transportation Safety section of the Department of Transportation to be used for safety education
35 programs:

36 (a) That provide injury prevention education on traffic safety issues for each age group in the
37 kindergarten through college ages;

38 (b) That have been recipients of funds under 23 U.S.C. 402 for at least three years;

39 (c) That are found by the Transportation Safety section to be effective, as measured by the
40 three-year reporting cycle funded under 23 U.S.C. 402; and

41 (d) That operate statewide.

42 **SECTION 10.** **This 2005 Act takes effect July 1, 2007.**

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