

# House Bill 2311

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Association of Oregon Counties, League of Oregon Cities, Oregon Collectors Association, Judicial Department, Oregon Justices of the Peace Association and Oregon Municipal Judges Association)

## 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**.

Eliminates Court Facilities Account and Local Court Facilities Accounts. Repeals requirement that interest on criminal judgments be deposited in those accounts.

Modifies rate of interest on judgments in criminal actions. Allows waiver of interest on criminal judgments.

Provides that moneys collected as interest on criminal judgments may be applied against costs of collection. Requires that remaining amounts collected as interest on judgments of Supreme Court, Court of Appeals, Oregon Tax Court or circuit courts be paid into Criminal Injuries Compensation Account. Requires that remaining amounts collected as interest on judgments of municipal or justice courts be paid into general fund of city or county in which court operates. Provides that interest collected on award for restitution on and after January 1, 2012, be paid to person in whose favor award was made.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to interest on criminal judgments; amending ORS 137.183 and 137.295; repealing ORS 1.190  
3 and 1.192 and section 5, chapter 1064, Oregon Laws 1999; and declaring an emergency.

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

5 **SECTION 1.** ORS 137.183 is amended to read:

6 137.183. [*Notwithstanding ORS 82.010, judgments in criminal actions bear interest at the rate of*  
7 *12.5 percent per annum from the date of entry of the judgment for the first five years and four percent*  
8 *per annum thereafter. The clerk of the court shall calculate interest on each category of monetary ob-*  
9 *ligation established by ORS 137.295 for the purpose of distribution of the interest in the manner pro-*  
10 *vided in ORS 137.295. Interest shall accrue monthly on the first day of each month, beginning with the*  
11 *first day of the second full calendar month after the monetary obligation first becomes due.]*

12 (1) **Criminal judgments bear interest at the rate provided by ORS 82.010.**

13 (2) **The State Court Administrator may waive interest, or cause waiver of interest, on**  
14 **any criminal judgment or category of criminal judgments for the purpose of administering**  
15 **the collection of judgments of the Supreme Court, the Court of Appeals, the Oregon Tax**  
16 **Court and circuit courts. A judge of the Supreme Court, the Court of Appeals, the Oregon**  
17 **Tax Court or a circuit court may waive interest in any criminal action or proceeding for good**  
18 **cause shown.**

19 (3) **A municipal judge may waive interest on any criminal judgment, or category of**  
20 **criminal judgments, entered in the municipal court in which the judge presides. A justice of**  
21 **the peace may waive interest on any criminal judgment, or category of criminal judgments,**  
22 **entered in the justice court in which the justice of the peace presides.**

23 (4) **A waiver under subsection (2) or (3) of this section may be for all or part of the in-**  
24 **terest payable on a criminal judgment and may be for a specified period of time.**

**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       **(5) All payments collected under a criminal judgment must first be applied against the**  
 2 **principal amount of a money award. Payments may be applied against interest on the money**  
 3 **award only after the principal amount of the money award is paid.**

4       **(6) Moneys collected as interest under a criminal judgment may be applied against costs**  
 5 **of collection. Except as provided in subsection (7) of this section:**

6       **(a) Any amounts of moneys collected as interest on judgments of the Supreme Court,**  
 7 **Court of Appeals, Oregon Tax Court or circuit courts that remain after payment of collection**  
 8 **costs shall be deposited in the Criminal Injuries Compensation Account to be used for the**  
 9 **purposes specified in ORS 147.225.**

10       **(b) Any amounts of moneys collected as interest on judgments of the municipal or justice**  
 11 **courts that remain after payment of collection costs shall be deposited in the general fund**  
 12 **of the city or county in which the court operates and be available for general governmental**  
 13 **purposes.**

14       **(7) After any payment of costs of collection, any interest collected on an award for**  
 15 **restitution on and after January 1, 2012, must be paid to the person in whose favor the award**  
 16 **of restitution was made.**

17       **(8) As used in this section, “criminal judgment” means a judgment entered in a criminal**  
 18 **action as defined in ORS 131.005.**

19       **SECTION 2.** ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section  
 20 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter  
 21 564, Oregon Laws 2005, is amended to read:

22       137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-  
 23 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against  
 24 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute  
 25 the payment as provided in this section.

26       (2) There are four categories of monetary obligations. The categories are as follows:

27       (a) Category 1 consists of compensatory fines under ORS 137.101.

28       (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS  
 29 419C.450 and a monetary obligation imposed under ORS 811.706.

30       (c) Category 3 consists of the unitary assessment imposed under ORS 137.290, costs imposed  
 31 under ORS 151.505 or 161.665 and those fines, costs, forfeited security amounts and other monetary  
 32 obligations payable to the state or to the General Fund of the state in criminal and quasi-criminal  
 33 cases for which moneys the law does not expressly provide other disposition.

34       (d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the  
 35 conviction, but which do not fall under category 1, category 2 or category 3 of the obligation cate-  
 36 gories. These include, but are not limited to, fines and other monetary obligations that the law ex-  
 37 pressly directs be paid to an agency, person or political subdivision of the state, and any other  
 38 obligation to reimburse for payment of a reward under ORS 131.897.

39       (3) As long as there remains unpaid any obligation under category 1, [*including any interest ac-*  
 40 *crued on that obligation,*] the clerk shall credit toward category 1 all of each payment received.

41       (4) After the total obligation has been credited under category 1, then as long as there remains  
 42 unpaid any obligation under both categories 2 and 3, [*including any interest accrued on those obli-*  
 43 *gations,*] the clerk shall credit toward each such category 50 percent of each payment received.

44       (5) The clerk shall monthly transfer [*the principal amount of*] the moneys credited under category  
 45 1 and under category 2[, *and all interest that has accrued on those principal amounts,*] to the victims

1 for whose benefit moneys under that category were ordered paid. If there are multiple victims for  
 2 whose benefit moneys have been ordered paid under category 2, the clerk shall first transfer moneys  
 3 credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the moneys due the  
 4 victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer moneys cred-  
 5 ited under category 2 to the Criminal Injuries Compensation Account if moneys have been ordered  
 6 paid to the account under category 2. When the moneys due the account have been fully paid, the  
 7 clerk shall transfer moneys credited under category 2 to any other victims, as defined in ORS  
 8 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in proportion  
 9 to the amounts ordered. The clerk of a circuit court shall monthly transfer [*the principal amount*  
 10 *of*] the moneys credited under category 3 as directed by the State Court Administrator for deposit  
 11 in the State Treasury to the credit of the Criminal Fine and Assessment Account established under  
 12 ORS 137.300. The clerk of a justice or municipal court shall monthly transfer [*the principal amount*  
 13 *of*] the moneys credited under category 3 to the Department of Revenue as provided in ORS 305.830.  
 14 [*The clerk shall transfer all interest on the principal amount of the moneys credited under category 3*  
 15 *to the State Court Administrator for deposit in the Court Facilities Account established under ORS*  
 16 *1.190.*]

17 (6) When the entire amount owing for purposes of either category 2 or category 3 has been  
 18 credited, [*including any interest that has accrued on the amount,*] further payments by the defendant  
 19 shall be credited by the clerk entirely to the unpaid balance of whichever of those categories re-  
 20 mains unpaid, until both category 2 and category 3 have been entirely paid.

21 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-  
 22 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-  
 23 ligations under category 4 and shall monthly transfer [*the principal amount of*] the moneys so  
 24 received to the appropriate recipient, giving first priority to counties and cities entitled to revenues  
 25 generated by prosecutions in justice and municipal courts and giving last priority to persons entitled  
 26 to moneys as reimbursement for reward under ORS 131.897. [*The clerk shall transfer all interest on*  
 27 *the principal amount of the moneys credited under category 4 to the agency, person or political subdi-*  
 28 *vision of the state entitled to the principal amount. All interest on monetary obligations owing to the*  
 29 *state under category 4 shall be transferred to the State Court Administrator for deposit in the Court*  
 30 *Facilities Account established under ORS 1.190.*]

31 (8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly  
 32 transfer the moneys attributable to parking violations to the State Treasurer for deposit in the  
 33 General Fund.

34 (9) The clerk of a justice or municipal court must make the transfers required by this section  
 35 not later than the last day of the month immediately following the month in which a payment is  
 36 made.

37 **SECTION 3. ORS 1.190 and 1.192 and section 5, chapter 1064, Oregon Laws 1999, as**  
 38 **amended by section 1, chapter 394, Oregon Laws 2003, are repealed.**

39 **SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**  
 40 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
 41 **on its passage.**