

House Bill 2499

Sponsored by Representative G SMITH; Representatives DALLUM, GIROD, THATCHER, Senator L GEORGE (at the request of Kenneth Matlack, Morrow County Sheriff)

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**.

Describes when person has suffered economic damages as result of offense or defendant's criminal activities for purposes of restitution.

A BILL FOR AN ACT

1
2 Relating to restitution; amending ORS 137.103 and 137.295.

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

4 **SECTION 1.** ORS 137.103 is amended to read:

5 137.103. (1) As used in ORS 137.101 to 137.109, 161.675 and 161.685:

6 [(1)] (a) "Criminal activities" means any offense with respect to which the defendant is con-
7 victed or any other criminal conduct admitted by the defendant.

8 [(2)] (b) "Economic damages" has the meaning given that term in ORS 31.710, except that
9 "economic damages" does not include future impairment of earning capacity.

10 [(3)] (c) "Restitution" means full, partial or nominal payment of economic damages to a victim.
11 Restitution is independent of and may be awarded in addition to a compensatory fine awarded under
12 ORS 137.101.

13 [(4)] (d) "Victim" means:

14 [(a)] (A) The person against whom the defendant committed the criminal offense, if the court
15 determines that the person has suffered economic damages as a result of the offense.

16 [(b)] (B) Any person not described in [*paragraph (a) of this subsection*] **subparagraph (A) of this**
17 **paragraph** whom the court determines has suffered economic damages as a result of the defendant's
18 criminal activities.

19 [(c)] (C) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a
20 victim described in [*paragraph (a) of this subsection*] **subparagraph (A) of this paragraph**.

21 [(d)] (D) An insurance carrier, if it has expended moneys on behalf of a victim described in
22 [*paragraph (a) of this subsection*] **subparagraph (A) of this paragraph**.

23 [(5)] (e) "Victim" does not include any coparticipant in the defendant's criminal activities.

24 (2) **For purposes of this section, a person has suffered economic damages as a result of**
25 **an offense or a defendant's criminal activities if the person has incurred expenses in ob-**
26 **taining, at the request of a law enforcement agency, information relating to a criminal in-**
27 **vestigation.**

28 **SECTION 2.** ORS 137.295 is amended to read:

29 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
30 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
31 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute

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 the payment as provided in this section.

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

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

4 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
5 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

15 (3) So long as there remains unpaid any obligation under category 1, the clerk shall credit to-
16 ward category 1 all of each payment received.

17 (4) After the total obligation has been credited under category 1, then so long as there remains
18 unpaid any obligation under both categories 2 and 3, the clerk shall credit toward each such cate-
19 gory 50 percent of each payment received.

20 (5) The clerk shall monthly transfer the moneys credited under category 1 and under category
21 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-
22 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first
23 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 [(4)(a)]
24 **(1)(d)(A)**. When the moneys due the victim, as defined in ORS 137.103 [(4)(a)] **(1)(d)(A)**, have been
25 fully paid, the clerk shall transfer moneys credited under category 2 to the Criminal Injuries Com-
26 pensation Account if moneys have been ordered paid to the account under category 2. When the
27 moneys due the account have been fully paid, the clerk shall transfer moneys credited under cate-
28 gory 2 to any other victims, as defined in ORS 137.103 [(4)(b) or (d)] **(1)(d)(B) or (D)**, for whose
29 benefit moneys under that category were ordered paid in proportion to the amounts ordered. The
30 clerk of a circuit court shall monthly transfer the moneys credited under category 3 as directed by
31 the State Court Administrator for deposit in the State Treasury to the credit of the Criminal Fine
32 and Assessment Account established under ORS 137.300. The clerk of a justice or municipal court
33 shall monthly transfer the moneys credited under category 3 to the Department of Revenue as pro-
34 vided in ORS 305.830.

35 (6) When the entire amount owing for purposes of either category 2 or category 3 has been
36 credited, further payments by the defendant shall be credited by the clerk entirely to the unpaid
37 balance of whichever of those categories remains unpaid, until both category 2 and category 3 have
38 been entirely paid.

39 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
40 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
41 ligations under category 4 and shall monthly transfer the moneys so received to the appropriate
42 recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions
43 in justice and municipal courts and giving last priority to persons entitled to moneys as reimburse-
44 ment for reward under ORS 131.897.

45 (8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly

1 transfer the moneys attributable to parking violations to the State Treasurer for deposit in the
 2 General Fund.

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

6 **SECTION 3.** ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section
 7 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter
 8 564, Oregon Laws 2005, is amended to read:

9 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
 10 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
 11 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute
 12 the payment as provided in this section.

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

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

15 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
 16 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

31 (5) The clerk shall monthly transfer the principal amount of the moneys credited under category
 32 1 and under category 2, and all interest that has accrued on those principal amounts, to the victims
 33 for whose benefit moneys under that category were ordered paid. If there are multiple victims for
 34 whose benefit moneys have been ordered paid under category 2, the clerk shall first transfer moneys
 35 credited under category 2 to the victim, as defined in ORS 137.103 [(4)(a)] **(1)(d)(A)**. When the
 36 moneys due the victim, as defined in ORS 137.103 [(4)(a)] **(1)(d)(A)**, have been fully paid, the clerk
 37 shall transfer moneys credited under category 2 to the Criminal Injuries Compensation Account if
 38 moneys have been ordered paid to the account under category 2. When the moneys due the account
 39 have been fully paid, the clerk shall transfer moneys credited under category 2 to any other victims,
 40 as defined in ORS 137.103 [(4)(b) or (d)] **(1)(d)(B) or (D)**, for whose benefit moneys under that cat-
 41 egory were ordered paid in proportion to the amounts ordered. The clerk of a circuit court shall
 42 monthly transfer the principal amount of the moneys credited under category 3 as directed by the
 43 State Court Administrator for deposit in the State Treasury to the credit of the Criminal Fine and
 44 Assessment Account established under ORS 137.300. The clerk of a justice or municipal court shall
 45 monthly transfer the principal amount of the moneys credited under category 3 to the Department

1 of Revenue as provided in ORS 305.830. The clerk shall transfer all interest on the principal amount
2 of the moneys credited under category 3 to the State Court Administrator for deposit in the Court
3 Facilities Account established under ORS 1.190.

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

8 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
9 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
10 ligations under category 4 and shall monthly transfer the principal amount of the moneys so
11 received to the appropriate recipient, giving first priority to counties and cities entitled to revenues
12 generated by prosecutions in justice and municipal courts and giving last priority to persons entitled
13 to moneys as reimbursement for reward under ORS 131.897. The clerk shall transfer all interest on
14 the principal amount of the moneys credited under category 4 to the agency, person or political
15 subdivision of the state entitled to the principal amount. All interest on monetary obligations owing
16 to the state under category 4 shall be transferred to the State Court Administrator for deposit in
17 the Court Facilities Account established under ORS 1.190.

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

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

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