

Enrolled
Senate Bill 1052

Sponsored by Senator WINTERS; Representative KOMP (at the request of Blue Ribbon Task Force on Methamphetamine)

CHAPTER

AN ACT

Relating to unitary assessments in methamphetamine prosecutions; creating new provisions; and amending ORS 137.290 and 137.295.

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

SECTION 1. ORS 137.290 is amended to read:

137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this section. The unitary assessment shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$107 in the case of a felony.
- (b) \$67 in the case of a misdemeanor.
- (c) \$97 in the case of a conviction for driving under the influence of intoxicants.
- (d) \$37 in the case of a violation as described in ORS 153.008.

(2) The unitary assessment shall include, in addition to the amount in subsection (1) of this section:

(a) \$42 if the defendant was driving a vehicle that requires a commercial driver license to operate and the conviction was for violating:

(A) ORS 811.100 by driving at a speed at least 10 miles per hour greater than is reasonable and prudent under the circumstances; or

(B) ORS 811.111 (1)(b) by driving at least 65 miles per hour; *[and]*

(b) \$500 if the crime of conviction is a crime found in ORS chapter 163[.];

(c) \$500 if the crime of conviction is a violation of ORS 475.890 or 475.892; and

(d) \$1,000 if the crime of conviction is a violation of ORS 475.886 or 475.888.

(3) Subject to subsection (4) of this section, the court in any case may waive payment of the unitary assessment, in whole or in part, if, upon consideration, the court finds that payment of the assessment or portion thereof would impose upon the defendant a total monetary obligation inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:

(a) The financial resources of the defendant and the burden that payment of the unitary assessment will impose, with due regard to the other obligations of the defendant; and

(b) The extent to which such burden can be alleviated by allowing the defendant to pay the monetary obligations imposed by the court on an installment basis or on other conditions to be fixed by the court.

(4) If a defendant is convicted of an offense, the court:

(a) May waive all or part of the unitary assessment required under subsections (1) and (2)(a) of this section only if the court imposes no fine on the defendant.

(b) May not waive the portion of the unitary assessment required under subsection (2)(c) or (d) of this section, except in juvenile cases under ORS 419C.005 (1).

SECTION 2. ORS 137.290, as amended by section 21, chapter 843, Oregon Laws 2005, is amended to read:

137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the unitary assessment shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of a fine and shall be in an amount as follows:

(a) \$107 in the case of a felony.

(b) \$67 in the case of a misdemeanor.

(c) \$97 in the case of a conviction for driving under the influence of intoxicants.

(d) \$37 in the case of a violation as described in ORS 153.008.

(2) The unitary assessment shall include, in addition to the amount in subsection (1) of this section:

(a) \$42 if the defendant was driving a vehicle that requires a commercial driver license to operate and the conviction was for violating:

(A) ORS 811.100 by driving at a speed at least 10 miles per hour greater than is reasonable and prudent under the circumstances; or

(B) ORS 811.111 (1)(b) by driving at least 65 miles per hour; *[and]*

(b) \$500 if the crime of conviction is a crime found in ORS chapter 163[.];

(c) \$500 if the crime of conviction is a violation of ORS 475.890 or 475.892; and

(d) \$1,000 if the crime of conviction is a violation of ORS 475.886 or 475.888.

(3) Subject to subsection (4) of this section, the court in any case may waive payment of the unitary assessment, in whole or in part, if, upon consideration, the court finds that payment of the assessment or portion thereof would impose upon the defendant a total monetary obligation inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:

(a) The financial resources of the defendant and the burden that payment of the unitary assessment will impose, with due regard to the other obligations of the defendant; and

(b) The extent to which such burden can be alleviated by allowing the defendant to pay the monetary obligations imposed by the court on an installment basis or on other conditions to be fixed by the court.

(4) If a defendant is convicted of an offense, the court:

(a) May waive all or part of the unitary assessment required under subsections (1) and (2)(a) of this section only if the court imposes no fine on the defendant.

(b) May not waive the portion of the unitary assessment required under subsection (2)(c) or (d) of this section, except in juvenile cases under ORS 419C.005 (1).

SECTION 3. ORS 137.295 is amended to read:

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

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

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

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

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

(d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the conviction, but which do not fall under category 1, category 2 or category 3 of the obligation categories. These include, but are not limited to, fines and other monetary obligations that the law expressly directs be paid to an agency, person or political subdivision of the state, and any other obligation to reimburse for payment of a reward under ORS 131.897. **Notwithstanding paragraph (c) of this subsection, the portion of assessments collected as required by ORS 137.290 (2)(c) and (d) shall be considered category 4 obligations.**

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

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

(5) The clerk shall monthly transfer the moneys credited under category 1 and under category 2 to the victims for whose benefit moneys under that category were ordered paid. If there are multiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have been ordered paid to the account under category 2. When the moneys due the account have been fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in proportion to the amounts ordered. The clerk of a circuit court shall monthly transfer the moneys credited under category 3 as directed by the State Court Administrator for deposit in the State Treasury to the credit of the Criminal Fine and Assessment Account established under ORS 137.300. The clerk of a justice or municipal court shall monthly transfer the moneys credited under category 3 to the Department of Revenue as provided in ORS 305.830.

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

(7) When category 1, category 2 and category 3 have been entirely paid and any obligation remains owing under category 4, the clerk shall credit further payments by the defendant to the obligations under category 4 and shall monthly transfer the moneys so received to the appropriate recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions in justice and municipal courts and giving last priority to persons entitled to moneys as reimbursement for reward under ORS 131.897. **The clerk shall monthly transfer the portion of assessments collected as required by ORS 137.290 (2)(c) and (d) to the county for administration of substance abuse treatment programs described in ORS 430.420.**

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

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

SECTION 4. ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter 564, Oregon Laws 2005, is amended to read:

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

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

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

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

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

(d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the conviction, but which do not fall under category 1, category 2 or category 3 of the obligation categories. These include, but are not limited to, fines and other monetary obligations that the law expressly directs be paid to an agency, person or political subdivision of the state, and any other obligation to reimburse for payment of a reward under ORS 131.897. **Notwithstanding paragraph (c) of this subsection, the portion of assessments collected as required by ORS 137.290 (2)(c) and (d) shall be considered category 4 obligations.**

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

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

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

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

(7) When category 1, category 2 and category 3 have been entirely paid and any obligation remains owing under category 4, the clerk shall credit further payments by the defendant to the obligations under category 4 and shall monthly transfer the principal amount of the moneys so

received to the appropriate recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions in justice and municipal courts and giving last priority to persons entitled to moneys as reimbursement for reward under ORS 131.897. The clerk shall transfer all interest on the principal amount of the moneys credited under category 4 to the agency, person or political subdivision of the state entitled to the principal amount. All interest on monetary obligations owing to the state under category 4 shall be transferred to the State Court Administrator for deposit in the Court Facilities Account established under ORS 1.190. **The clerk shall monthly transfer the portion of assessments collected as required by ORS 137.290 (2)(c) and (d) to the county for administration of substance abuse treatment programs described in ORS 430.420.**

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

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

SECTION 5. The amendments to ORS 137.290 by sections 1 and 2 of this 2007 Act apply to crimes committed on or after the effective date of this 2007 Act.

Passed by Senate June 18, 2007

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Secretary of Senate

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President of Senate

Passed by House June 22, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State