

# Senate Bill 1052

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

## 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**.

Provides for increased, nonwaivable unitary assessment in methamphetamine-related crimes. Directs that proceeds of additional assessment be transferred to counties for administration of substance abuse treatment programs.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to unitary assessments in methamphetamine prosecutions; creating new provisions; amend-  
3 ing ORS 137.290 and 137.295; and declaring an emergency.

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

5 **SECTION 1.** ORS 137.290 is amended to read:

6 137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding  
7 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon  
8 the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this  
9 section. The unitary assessment shall also be imposed by the circuit court and county court in ju-  
10 venile cases under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of  
11 a fine and shall be in an amount as follows:

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

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

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

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

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

18 (a) \$42 if the defendant was driving a vehicle that requires a commercial driver license to op-  
19 erate and the conviction was for violating:

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

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

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

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

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

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

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

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

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

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

9 (b) **May not waive the unitary assessment required under this section if the conviction**  
10 **is for a violation of ORS 475.886, 475.888, 475.890 or 475.892.**

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

13 137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding  
14 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon  
15 the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this  
16 section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the  
17 unitary assessment shall also be imposed by the circuit court and county court in juvenile cases  
18 under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of a fine and  
19 shall be in an amount as follows:

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

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

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

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

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

26 (a) \$42 if the defendant was driving a vehicle that requires a commercial driver license to op-  
27 erate and the conviction was for violating:

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

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

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

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

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

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

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

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

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

45 (a) May waive all or part of the unitary assessment required under subsections (1) and (2)(a)

1 of this section only if the court imposes no fine on the defendant.

2 **(b) May not waive the unitary assessment required under this section if the conviction**  
 3 **is for a violation of ORS 475.886, 475.888, 475.890 or 475.892.**

4 **SECTION 3.** ORS 137.295 is amended to read:

5 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-  
 6 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against  
 7 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute  
 8 the payment as provided in this section.

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

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

11 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS  
 12 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

29 (5) The clerk shall monthly transfer the moneys credited under category 1 and under category  
 30 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-  
 31 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first  
 32 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the  
 33 moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer  
 34 moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have  
 35 been ordered paid to the account under category 2. When the moneys due the account have been  
 36 fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined  
 37 in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in  
 38 proportion to the amounts ordered. The clerk of a circuit court shall monthly transfer the moneys  
 39 credited under category 3 as directed by the State Court Administrator for deposit in the State  
 40 Treasury to the credit of the Criminal Fine and Assessment Account established under ORS 137.300.  
 41 The clerk of a justice or municipal court shall monthly transfer the moneys credited under category  
 42 3 to the Department of Revenue as provided in ORS 305.830.

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

1 been entirely paid.

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

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

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

16 **SECTION 4.** ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section  
17 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter  
18 564, Oregon Laws 2005, is amended to read:

19 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-  
20 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against  
21 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute  
22 the payment as provided in this section.

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

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

25 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS  
26 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

43 (5) The clerk shall monthly transfer the principal amount of the moneys credited under category  
44 1 and under category 2, and all interest that has accrued on those principal amounts, to the victims  
45 for whose benefit moneys under that category were ordered paid. If there are multiple victims for

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

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

20 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-  
21 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-  
22 ligations under category 4 and shall monthly transfer the principal amount of the moneys so  
23 received to the appropriate recipient, giving first priority to counties and cities entitled to revenues  
24 generated by prosecutions in justice and municipal courts and giving last priority to persons entitled  
25 to moneys as reimbursement for reward under ORS 131.897. The clerk shall transfer all interest on  
26 the principal amount of the moneys credited under category 4 to the agency, person or political  
27 subdivision of the state entitled to the principal amount. All interest on monetary obligations owing  
28 to the state under category 4 shall be transferred to the State Court Administrator for deposit in  
29 the Court Facilities Account established under ORS 1.190. **The clerk shall monthly transfer the**  
30 **portion of assessments collected as required by ORS 137.290 (2)(c) and (d) to the county for**  
31 **administration of substance abuse treatment programs described in ORS 430.420.**

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

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

38 **SECTION 5. The amendments to ORS 137.290 by sections 1 and 2 of this 2007 Act apply**  
39 **only to crimes committed on or after September 1, 2007.**

40 **SECTION 6. This 2007 Act being necessary for the immediate preservation of the public**  
41 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
42 **on its passage.**