

Senate Bill 132

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Hardy Myers for Attorney General's Restitution Reform Task Force)

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**.

Allows juvenile court to award compensatory fines in judgments in criminal actions involving youth offenders. Allows juvenile court to designate award of economic damages as compensatory fine, restitution or both. Provides that formal accountability agreement must require that youth make restitution for physical injury or loss or damage to property. Allows restitution or compensatory fine of less than full amount of economic damages, with consent of victim. Defines "victim" for purposes of restitution or compensatory fines.

A BILL FOR AN ACT

1
2 Relating to compensation for victims of juvenile crime; creating new provisions; and amending ORS
3 137.295, 419A.004, 419C.236, 419C.450 and 419C.459.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 419C.**

6 **SECTION 2. (1) Notwithstanding ORS 419C.501 and 419C.504, when the court has ordered**
7 **a youth offender to pay restitution under ORS 419C.450 or a compensatory fine under ORS**
8 **419C.459, the judgment must be entered in the register or docket of the court in the manner**
9 **provided by ORS chapter 18 for judgments in criminal actions. The judgment is a judgment**
10 **in favor of the state and may be enforced only by the state. If the judgment is sought to be**
11 **enforced, the judgment must be enforced in the manner provided by ORS 18.252 to 18.993.**
12 **Notwithstanding ORS 419A.255, a judgment for restitution entered under ORS 419C.450 or a**
13 **compensatory fine entered under ORS 419C.459 is a public record. Judgments entered under**
14 **ORS 419C.450 or 419C.459 are judgments in criminal actions that are subject to ORS 18.048,**
15 **18.180 and 18.182.**

16 **(2) When a youth who is allowed diversion under ORS 419C.225, a youth who has entered**
17 **into a formal accountability agreement under ORS 419C.230 or a youth offender who has been**
18 **adjudicated makes a payment of money to be credited against monetary obligations imposed**
19 **as a result of the diversion, agreement or adjudication, the clerk shall credit and distribute**
20 **the payment as provided in ORS 137.295.**

21 **SECTION 3. ORS 419A.004 is amended to read:**

22 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
23 otherwise:

24 (1) "CASA Volunteer Program" means a program approved or sanctioned by the juvenile court
25 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

26 (2) "Child care center" means a residential facility for wards or youth offenders that is licensed
27 under the provisions of ORS 418.240.

28 (3) "Community service" has the meaning given that term in ORS 137.126.

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 (4) "Conflict of interest" means a person appointed to a local citizen review board who has a
2 personal or pecuniary interest in a case being reviewed by that board.

3 (5) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

4 (6) "Court" means the juvenile court.

5 (7) "Court appointed special advocate" or "CASA" means a person appointed by the court pur-
6 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

7 (8) "Court facility" has the meaning given that term in ORS 166.360.

8 (9) "Department" means the Department of Human Services.

9 (10) "Detention" or "detention facility" means a facility established under ORS 419A.010 to
10 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
11 pursuant to a judicial commitment or order.

12 (11) "Director" means the director of a juvenile department established under ORS 419A.010 to
13 419A.020 and 419A.050 to 419A.063.

14 (12) **"Economic damages" has the meaning given that term in ORS 31.710, except that**
15 **"economic damages" does not include future impairment of earning capacity.**

16 [(12)] (13) "Guardian" means guardian of the person and not guardian of the estate.

17 [(13)] (14) "Indian child" means any unmarried person less than 18 years of age who is:

18 (a) A member of an Indian tribe; or

19 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
20 dian tribe.

21 [(14)] (15) "Juvenile court" means the court having jurisdiction of juvenile matters in the several
22 counties of this state.

23 [(15)] (16) "Local citizen review board" means the board specified by ORS 419A.090 and
24 419A.092.

25 [(16)] (17) "Parent" means the biological or adoptive mother and the legal father of the child,
26 ward, youth or youth offender. As used in this subsection, "legal father" means:

27 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
28 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

29 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
30 cable tribal law.

31 [(17)] (18) "Permanent foster care" means an out-of-home placement in which there is a long-
32 term contractual foster care agreement between the foster parents and the department that is ap-
33 proved by the juvenile court and in which the foster parents commit to raise a ward in substitute
34 care or youth offender until the age of majority.

35 [(18)] (19) "Planned permanent living arrangement" means an out-of-home placement other than
36 by adoption, placement with a relative or placement with a legal guardian that is consistent with
37 the case plan and in the best interests of the ward.

38 [(19)] (20) "Public building" has the meaning given that term in ORS 166.360.

39 [(20)] (21) "Reasonable time" means a period of time that is reasonable given a child or ward's
40 emotional and developmental needs and ability to form and maintain lasting attachments.

41 [(21)] (22) "Records" means any information in written form, pictures, photographs, charts,
42 graphs, recordings or documents pertaining to a case.

43 [(22)] (23) "Resides" or "residence," when used in reference to the residence of a child, ward,
44 youth or youth offender, means the place where the child, ward, youth or youth offender is actually
45 living or the jurisdiction in which wardship or jurisdiction has been established.

1 [(23)] (24) “Restitution” has the meaning given that term in ORS 137.103. **Restitution is inde-**
 2 **pendent of and may be awarded in addition to a compensatory fine awarded under ORS**
 3 **419C.459.**

4 [(24)] (25) “Serious physical injury” means:

5 (a) A serious physical injury as defined in ORS 161.015; or

6 (b) A physical injury that:

7 (A) Has a permanent or protracted significant effect on a child’s daily activities;

8 (B) Results in substantial and recurring pain; or

9 (C) In the case of a child under 10 years of age, is a broken bone.

10 [(25)] (26) “Shelter care” means a home or other facility suitable for the safekeeping of a child,
 11 ward, youth or youth offender who is taken into temporary custody pending investigation and dis-
 12 position.

13 [(26)] (27) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for
 14 holding children, youths and youth offenders pending further placement.

15 [(27)] (28) “Substitute care” means an out-of-home placement directly supervised by the depart-
 16 ment or other agency, including placement in a foster family home, group home or other child caring
 17 institution or facility. “Substitute care” does not include care in:

18 (a) A detention facility, forestry camp or youth correction facility;

19 (b) A family home that the court has approved as a ward’s permanent placement, when a private
 20 child caring agency has been appointed guardian of the ward and when the ward’s care is entirely
 21 privately financed; or

22 (c) In-home placement subject to conditions or limitations.

23 [(28)] (29) “Surrogate” means a person appointed by the court to protect the right of the child,
 24 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
 25 appropriate public education.

26 [(29)] (30) “Tribal court” means a court with jurisdiction over child custody proceedings and
 27 that is either a Court of Indian Offenses, a court established and operated under the code of custom
 28 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
 29 custody proceedings.

30 [(30)] (31) “Ward” means a person within the jurisdiction of the juvenile court under ORS
 31 419B.100.

32 [(31)] (32) “Youth” means a person under 18 years of age who is alleged to have committed an
 33 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
 34 of the United States or a state, county or city.

35 [(32)] (33) “Youth care center” has the meaning given that term in ORS 420.855.

36 [(33)] (34) “Youth offender” means a person who has been found to be within the jurisdiction
 37 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
 38 of age.

39 **SECTION 4.** ORS 419A.004, as amended by section 1, chapter 843, Oregon Laws 2005, is
 40 amended to read:

41 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
 42 otherwise:

43 (1) “CASA Volunteer Program” means a program approved or sanctioned by the juvenile court
 44 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

45 (2) “Child care center” means a residential facility for wards or youth offenders that is licensed

1 under the provisions of ORS 418.240.

2 (3) “Community service” has the meaning given that term in ORS 137.126.

3 (4) “Conflict of interest” means a person appointed to a local citizen review board who has a
4 personal or pecuniary interest in a case being reviewed by that board.

5 (5) “Counselor” means a juvenile department counselor or a county juvenile probation officer.

6 (6) “Court” means the juvenile court.

7 (7) “Court appointed special advocate” or “CASA” means a person appointed by the court pur-
8 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

9 (8) “Court facility” has the meaning given that term in ORS 166.360.

10 (9) “Department” means the Department of Human Services.

11 (10) “Detention” or “detention facility” means a facility established under ORS 419A.010 to
12 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
13 pursuant to a judicial commitment or order.

14 (11) “Director” means the director of a juvenile department established under ORS 419A.010 to
15 419A.020 and 419A.050 to 419A.063.

16 (12) **“Economic damages” has the meaning given that term in ORS 31.710, except that**
17 **“economic damages” does not include future impairment of earning capacity.**

18 [(12)] (13) “Guardian” means guardian of the person and not guardian of the estate.

19 [(13)] (14) “Indian child” means any unmarried person less than 18 years of age who is:

20 (a) A member of an Indian tribe; or

21 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
22 dian tribe.

23 [(14)] (15) “Juvenile court” means the court having jurisdiction of juvenile matters in the several
24 counties of this state.

25 [(15)] (16) “Local citizen review board” means the board specified by ORS 419A.090 and
26 419A.092.

27 [(16)] (17) “Parent” means the biological or adoptive mother and the legal father of the child,
28 ward, youth or youth offender. As used in this subsection, “legal father” means:

29 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
30 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

31 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
32 cable tribal law.

33 [(17)] (18) “Permanent foster care” means an out-of-home placement in which there is a long-
34 term contractual foster care agreement between the foster parents and the department that is ap-
35 proved by the juvenile court and in which the foster parents commit to raise a ward in substitute
36 care or youth offender until the age of majority.

37 [(18)] (19) “Planned permanent living arrangement” means an out-of-home placement other than
38 by adoption, placement with a relative or placement with a legal guardian that is consistent with
39 the case plan and in the best interests of the ward.

40 [(19)] (20) “Public building” has the meaning given that term in ORS 166.360.

41 [(20)] (21) “Reasonable time” means a period of time that is reasonable given a child or ward’s
42 emotional and developmental needs and ability to form and maintain lasting attachments.

43 [(21)] (22) “Records” means any information in written form, pictures, photographs, charts,
44 graphs, recordings or documents pertaining to a case.

45 [(22)] (23) “Resides” or “residence,” when used in reference to the residence of a child, ward,

1 youth or youth offender, means the place where the child, ward, youth or youth offender is actually
2 living or the jurisdiction in which wardship or jurisdiction has been established.

3 [(23)] (24) “Restitution” has the meaning given that term in ORS 137.103. **Restitution is inde-**
4 **pendent of and may be awarded in addition to a compensatory fine awarded under ORS**
5 **419C.459.**

6 [(24)] (25) “Serious physical injury” means:

7 (a) A serious physical injury as defined in ORS 161.015; or

8 (b) A physical injury that:

9 (A) Has a permanent or protracted significant effect on a child’s daily activities;

10 (B) Results in substantial and recurring pain; or

11 (C) In the case of a child under 10 years of age, is a broken bone.

12 [(25)] (26) “Shelter care” means a home or other facility suitable for the safekeeping of a child,
13 ward, youth or youth offender who is taken into temporary custody pending investigation and dis-
14 position.

15 [(26)] (27) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for
16 holding children, youths and youth offenders pending further placement.

17 [(27)] (28) “Substitute care” means an out-of-home placement directly supervised by the depart-
18 ment or other agency, including placement in a foster family home, group home or other child caring
19 institution or facility. “Substitute care” does not include care in:

20 (a) A detention facility, forestry camp or youth correction facility;

21 (b) A family home that the court has approved as a ward’s permanent placement, when a private
22 child caring agency has been appointed guardian of the ward and when the ward’s care is entirely
23 privately financed; or

24 (c) In-home placement subject to conditions or limitations.

25 [(28)] (29) “Surrogate” means a person appointed by the court to protect the right of the child,
26 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
27 appropriate public education.

28 [(29)] (30) “Tribal court” means a court with jurisdiction over child custody proceedings and
29 that is either a Court of Indian Offenses, a court established and operated under the code of custom
30 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
31 custody proceedings.

32 [(30)] (31) “Ward” means a person within the jurisdiction of the juvenile court under ORS
33 419B.100.

34 [(31)] (32) “Young person” means a person who has been found responsible except for insanity
35 under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

36 [(32)] (33) “Youth” means a person under 18 years of age who is alleged to have committed an
37 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
38 of the United States or a state, county or city.

39 [(33)] (34) “Youth care center” has the meaning given that term in ORS 420.855.

40 [(34)] (35) “Youth offender” means a person who has been found to be within the jurisdiction
41 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
42 of age.

43 **SECTION 5.** ORS 419C.236 is amended to read:

44 419C.236. (1) A formal accountability agreement may require participation in or referral to
45 counseling, a period of community service, drug or alcohol education or treatment, vocational

1 training or any other legal activity which in the opinion of the counselor would be beneficial to the
2 youth.

3 (2) A formal accountability agreement [*may*] **must** require that the youth make restitution to
4 any person who was physically injured or who suffered loss of or damage to property as a result
5 of the conduct alleged. Before setting the amount of restitution, the juvenile department shall con-
6 sult with the victim concerning the amount of damage. **Unless the victim consents to a lesser**
7 **amount of restitution, a formal accountability agreement must impose restitution in the full**
8 **amount of loss or damages suffered by the victim.** Restitution does not limit or impair the right
9 of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the
10 victim be admissible in such civil action to prove consent or agreement by the victim. However, the
11 court shall credit any restitution paid by the youth to a victim against any judgment in favor of the
12 victim in such civil action.

13 (3) **For purposes of this section, “victim” has the meaning given that term in ORS**
14 **137.103.**

15 **SECTION 6.** ORS 419C.450 is amended to read:

16 419C.450. (1)(a) It is the policy of the State of Oregon to encourage and promote the payment
17 of restitution and other obligations by youth offenders as well as by adult offenders. In any case
18 within the jurisdiction of the juvenile court pursuant to ORS 419C.005 in which the youth offender
19 caused another person any physical, emotional or psychological injury or any loss of or damage to
20 property, **the victim is entitled to full restitution.** The district attorney shall investigate and
21 present to the court, prior to or at the time of adjudication, evidence of the nature and amount of
22 the injury, loss or damage. If the court finds from the evidence presented that a victim suffered in-
23 jury, loss or damage, in addition to any other sanction it may impose, the court shall **include one**
24 **of the following in the judgment:**

25 (A) [*Include in the judgment*] A requirement that the youth offender pay the victim restitution
26 in a specific amount that equals the full amount of the victim’s injury, loss or damage as determined
27 by the court[; *or*].

28 (B) **A requirement that the youth offender pay the victim restitution in a specific amount**
29 **that is less than the full amount of the victim’s economic damages as determined by the**
30 **court. The court may not order that the youth offender pay less than the full amount of**
31 **economic damages without the consent of the victim.**

32 [*B*] (C) [*Include in the judgment*] A requirement that the youth offender pay the victim
33 restitution, and that the specific amount of restitution will be established by a supplemental judg-
34 ment based upon a determination made by the court within 90 days of entry of the judgment. In the
35 supplemental judgment, the court shall establish a specific amount of restitution that equals the full
36 amount of the victim’s injury, loss or damage as determined by the court **or, if the victim con-**
37 **sents, a specific amount that is less than the full amount of the victim’s economic**
38 **damages.** The court may extend the time within which the determination and supplemental judg-
39 ment may be completed for good cause. The lien, priority of the lien and ability to enforce a specific
40 amount of restitution established under this subparagraph by a supplemental judgment relates back
41 to the date of the original judgment that is supplemented.

42 (b) After the district attorney makes a presentation described in paragraph (a) of this subsection,
43 if the court is unable to find from the evidence presented that a victim suffered injury, loss or
44 damage, the court shall make a finding on the record to that effect.

45 (c) **Except as provided in subsection (2) of this section,** no finding made by the court or

1 failure of the court to make a finding under this subsection limits or impairs the rights of a person
 2 injured to sue and recover damages in a civil action [*under subsection (2) of this section*].

3 (d) The court may order restitution, including but not limited to counseling and treatment ex-
 4 penses, for emotional or psychological injury under this section only:

5 (A) When the act that brought the youth offender within the jurisdiction of the court would
 6 constitute aggravated murder, murder or a sex crime if committed by an adult; and

7 (B) For an injury suffered by the victim or a member of the victim's family who observed the
 8 act.

9 (2) Restitution for injury inflicted upon a person by the youth offender, for property taken,
 10 damaged or destroyed by the youth offender and for a reward offered by the victim or an organiza-
 11 tion authorized by the victim and paid for information leading to the apprehension of the youth
 12 offender, shall be required as a condition of probation. Restitution does not limit or impair the right
 13 of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the
 14 victim be admissible in such civil action to prove consent or agreement by the victim. **Evidence**
 15 **that the youth offender has paid or has been ordered to pay restitution under this section**
 16 **may not be introduced in any civil action arising out of the facts or events that were the**
 17 **basis for restitution.** However, the court shall credit any restitution paid by the youth offender to
 18 a victim against any judgment in favor of the victim in [*such*] **the** civil action. Before setting the
 19 amount of [*such*] restitution, the court shall notify the person upon whom the injury was inflicted
 20 or the owner of the property taken, damaged or destroyed and give such person an opportunity to
 21 be heard on the issue of restitution.

22 (3) If a judgment or supplemental judgment described in subsection (1) of this section includes
 23 restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only
 24 if the youth offender alleges and establishes to the satisfaction of the court the youth offender's in-
 25 ability to pay the judgment in full at the time the judgment is entered. If the court finds that the
 26 youth offender is unable to pay, the court may establish or allow an appropriate supervising au-
 27 thority to establish a payment schedule, taking into consideration:

28 (a) The availability to the youth offender of paid employment during such time as the youth
 29 offender may be committed to a youth correction facility;

30 (b) The financial resources of the youth offender and the burden that payment of restitution will
 31 impose, with due regard to the other obligations of the youth offender;

32 (c) The present and future ability of the youth offender to pay restitution on an installment basis
 33 or on other conditions to be fixed by the court; and

34 (d) The rehabilitative effect on the youth offender of the payment of restitution and the method
 35 of payment.

36 [*(4) Notwithstanding ORS 419C.501 and 419C.504, when the court has ordered a youth offender to*
 37 *pay restitution, as provided in this section, the judgment shall be entered in the register or docket of*
 38 *the court in the manner provided by ORS chapter 18 and enforced in the manner provided by ORS*
 39 *18.252 to 18.993. The judgment is in favor of the state and may be enforced only by the state.*
 40 *Notwithstanding ORS 419A.255, a judgment for restitution entered under this subsection is a public*
 41 *record. Judgments entered under this subsection are subject to ORS 18.048.]*

42 [(5)] (4) A person required to pay restitution under subsection (1) of this section may file a mo-
 43 tion supported by an affidavit for satisfaction of the judgment or supplemental judgment requiring
 44 payment of restitution in the circuit court of the county in which the original judgment was entered
 45 if:

1 (a) At least 50 percent of the monetary obligation is satisfied or at least 10 years have passed
 2 since the original judgment was entered;

3 (b) The person has substantially complied with all established payment plans;

4 (c) The person has not been found to be within the jurisdiction of the juvenile court under ORS
 5 419C.005 or convicted of an offense since the date the original judgment of restitution was entered;
 6 and

7 (d) The person has satisfactorily completed any required period of probation or parole for the
 8 act for which the judgment of restitution was entered.

9 [(6)] (5) When a person files a motion described in subsection [(5)] (4) of this section, the district
 10 attorney for the county in which the motion was filed shall promptly notify the victim for whose
 11 benefit the judgment of restitution was entered that the person has filed the motion and that the
 12 victim may object in writing to the motion through the district attorney.

13 [(7)] (6) If the victim does not object to the motion as provided in subsection [(6)] (5) of this
 14 section, the court shall hold a hearing on the motion and may enter an order granting a full or
 15 partial satisfaction if the allegations in the affidavit supporting the motion are true and failure to
 16 grant the motion would result in an injustice. In determining whether an injustice would result, the
 17 court shall take into account:

18 (a) The financial resources of the defendant and the burden that continued payment of
 19 restitution will impose, with due regard to the other obligations of the defendant;

20 (b) The ability of the defendant to continue paying restitution on an installment basis or under
 21 other conditions to be fixed by the court; and

22 (c) The rehabilitative effect on the defendant of the continued payment of restitution and the
 23 method of payment.

24 [(8)] (7) A person may file a motion under subsection [(5)] (4) of this section no more than one
 25 time per year for each judgment of restitution entered against the person.

26 **(8) For purposes of this section, “victim” has the meaning given that term in ORS**
 27 **137.103.**

28 **SECTION 7.** ORS 419C.459 is amended to read:

29 419C.459. (1) In circumstances under which, if the youth offender were an adult, a fine not ex-
 30 ceeding a certain amount could be imposed under the Oregon Criminal Code, the court may impose
 31 such a fine upon the youth offender. In determining whether to impose a fine and, if so, then in what
 32 amount, the court shall consider whether the youth offender will be able to pay a fine and whether
 33 payment of a fine is likely to have a rehabilitative effect on the youth offender. Fines ordered paid
 34 under this section shall be collected by the clerk of the court.

35 **(2)(a) Whenever the court imposes a fine under this section as a penalty, the court may**
 36 **order that the youth offender pay any portion of the fine separately to the clerk of the court**
 37 **as a compensatory fine when:**

38 **(A) The act causing the youth offender to be found within the jurisdiction of the court**
 39 **resulted in injury to another person or property; and**

40 **(B) Unless the issue of punitive damages has been previously decided in a civil case**
 41 **arising out of the same act and transaction, the person injured by the act causing the youth**
 42 **offender to be found within the jurisdiction of the court has a remedy by civil action in the**
 43 **case.**

44 **(b) The clerk shall credit and distribute the payment as provided in ORS 137.295. The**
 45 **clerk shall pay over to the injured victim or victims, as directed in the court’s order, moneys**

1 paid to the court as compensatory fines under this subsection. This subsection shall be lib-
2 erally construed in favor of victims.

3 (c) The court may apportion the amount of a victim's economic damages between
4 compensatory fines and restitution awarded under ORS 419C.450. The court may award
5 compensatory fines in addition to, or in lieu of, restitution. The court shall make a finding
6 on the record if the court awards a compensatory fine or restitution to compensate a victim
7 for economic damages. If the amount of economic damages exceeds the amount of fines
8 permissible under ORS 161.625 and 161.635, the court may award the balance of economic
9 damages as restitution.

10 (d) Nothing in this subsection limits or impairs the right of a person injured by a youth
11 offender's criminal acts to sue and recover damages from the youth offender in a civil action.
12 Evidence that the youth offender has paid or has been ordered to pay a compensatory fine
13 under this subsection may not be introduced in any civil action arising out of the facts or
14 events that were the basis for the compensatory fine. However, the court in the civil action
15 shall credit any compensatory fine paid by the youth offender to a victim against any judg-
16 ment for punitive damages in favor of the victim in the civil action.

17 (e) For purposes of this subsection, "victim" has the meaning given that term in ORS
18 137.103.

19 **SECTION 8.** ORS 137.295 is amended to read:

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

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

25 (a) Category 1 consists of compensatory fines under ORS 137.101 **and 419C.459.**

26 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
27 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

42 (5) The clerk shall monthly transfer the moneys credited under category 1 and under category
43 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-
44 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first
45 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the

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

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

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

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

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

27 **SECTION 9.** ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section
28 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter
29 564, Oregon Laws 2005, is amended to read:

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

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

35 (a) Category 1 consists of compensatory fines under ORS 137.101 **and 419C.459.**

36 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
37 419C.450 and a monetary obligation imposed under ORS 811.706.

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

42 (d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the
43 conviction, but which do not fall under category 1, category 2 or category 3 of the obligation cate-
44 gories. These include, but are not limited to, fines and other monetary obligations that the law ex-
45 pressly directs be paid to an agency, person or political subdivision of the state, and any other

1 obligation to reimburse for payment of a reward under ORS 131.897.

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

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

7 (5) The clerk shall monthly transfer the principal amount of the moneys credited under category
8 1 and under category 2, and all interest that has accrued on those principal amounts, to the victims
9 for whose benefit moneys under that category were ordered paid. If there are multiple victims for
10 whose benefit moneys have been ordered paid under category 2, the clerk shall first transfer moneys
11 credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the moneys due the
12 victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer moneys cred-
13 ited under category 2 to the Criminal Injuries Compensation Account if moneys have been ordered
14 paid to the account under category 2. When the moneys due the account have been fully paid, the
15 clerk shall transfer moneys credited under category 2 to any other victims, as defined in ORS
16 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in proportion
17 to the amounts ordered. The clerk of a circuit court shall monthly transfer the principal amount of
18 the moneys credited under category 3 as directed by the State Court Administrator for deposit in
19 the State Treasury to the credit of the Criminal Fine and Assessment Account established under
20 ORS 137.300. The clerk of a justice or municipal court shall monthly transfer the principal amount
21 of the moneys credited under category 3 to the Department of Revenue as provided in ORS 305.830.
22 The clerk shall transfer all interest on the principal amount of the moneys credited under category
23 3 to the State Court Administrator for deposit in the Court Facilities Account established under
24 ORS 1.190.

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

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

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

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