

Senate Bill 852

Sponsored by Senator STARR

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**.

Authorizes court to impose compensatory fine if person commits crime or traffic violation that results in physical injury to or death of any other person. Modifies definitions pertaining to restitution.

A BILL FOR AN ACT

1
2 Relating to financial obligations; creating new provisions; and amending ORS 137.103 and 137.295.

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

4 **SECTION 1. Notwithstanding any other provision of law, in addition to any other finan-**
5 **cial obligation, when a person commits a crime or a traffic violation, the court may order**
6 **the person to pay a compensatory fine to the victim, as defined in ORS 131.007, in the amount**
7 **of:**

8 (1) **\$720 if the crime or traffic violation resulted in physical injury, as that term is defined**
9 **in ORS 161.015, to any person; or**

10 (2) **\$1,440 if the crime or traffic violation resulted in the death of any person.**

11 **SECTION 2.** ORS 137.103 is amended to read:

12 137.103. As used in ORS 137.101 to 137.109, 161.675 and 161.685:

13 (1) "Criminal activities" means any offense, **including a violation as described in ORS 153.008,**
14 with respect to which the defendant is convicted or any other criminal conduct admitted by the
15 defendant.

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

18 (3) **"Person" has the meaning given that term in ORS 161.015.**

19 [(3)] (4) "Restitution" means full, partial or nominal payment of economic damages to a victim.
20 Restitution is independent of and may be awarded in addition to a compensatory fine awarded under
21 ORS 137.101.

22 [(4)] (5) "Victim" means:

23 (a) The person against whom the defendant committed the criminal offense, if the court deter-
24 mines that the person has suffered economic damages as a result of the offense.

25 (b) Any person not described in paragraph (a) of this subsection whom the court determines has
26 suffered economic damages as a result of the defendant's criminal activities.

27 (c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim
28 described in paragraph (a) of this subsection.

29 (d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph
30 (a) of this subsection.

31 [(5)] (6) "Victim" does not include any coparticipant in the defendant's criminal activities.

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

2 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
3 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
4 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute
5 the payment as provided in this section.

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

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

8 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
9 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

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

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

42 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
43 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
44 ligations under category 4 and shall monthly transfer the moneys so received to the appropriate
45 recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions

1 in justice and municipal courts and giving last priority to persons entitled to moneys as reimburse-
2 ment for reward under ORS 131.897.

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

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

9 **SECTION 4.** ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section
10 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter
11 564, Oregon Laws 2005, is amended to read:

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

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

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

18 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
19 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

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

1 for deposit in the State Treasury to the credit of the Criminal Fine and Assessment Account estab-
2 lished under ORS 137.300. The clerk of a justice or municipal court shall monthly transfer the
3 principal amount of the moneys credited under category 3 to the Department of Revenue as provided
4 in ORS 305.830. The clerk shall transfer all interest on the principal amount of the moneys credited
5 under category 3 to the State Court Administrator for deposit in the Court Facilities Account es-
6 tablished under ORS 1.190.

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

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

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.

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