

# A-Engrossed House Bill 2287

Ordered by the House May 7  
Including House Amendments dated May 7

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

## 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.

*[Repeals obsolete provision relating to jury trials in county courts.]*

**Increases court fees and other amounts that courts may charge. Creates court fees and assessment for specified fees.**

**Establishes State Judicial Stabilization Fund. Directs certain fees to be deposited in fund. Continuously appropriates moneys in fund to Judicial Department for purpose of paying expenses related to maintaining stable and equitable operation of state court system.**

**Establishes State Court Technology Account. Directs certain fees and assessment for specified fees to be deposited in account. Continuously appropriates moneys in account to department for purpose of paying certain expenses related to department's technology systems, equipment and services.**

## A BILL FOR AN ACT

1  
2 Relating to courts; creating new provisions; amending ORS 1.202, 1.204, 2.565, 18.235, 21.010, 21.110,  
3 21.114, 21.270, 21.275, 21.310, 21.325, 46.570, 105.130, 125.060, 131.897, 135.265, 135.921, 137.225,  
4 137.293, 137.295, 137.540, 305.490, 419A.262 and 813.240; appropriating money; and providing for  
5 revenue raising that requires approval by a three-fifths majority.

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

## COLLECTION ACCOUNT FEES

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8  
9  
10 **SECTION 1.** ORS 1.202 is amended to read:

11 1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments  
12 and divisions of the judicial branch of state government, shall add a fee of not less than \$50 and  
13 not more than *[\$100]* **\$200** to any judgment that includes a monetary obligation that the court or  
14 judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing  
15 and administering an account for the debtor and shall be added without further notice to the debtor  
16 or further order of the court. The fee shall be added only if the court gives the defendant a period  
17 of time in which to pay the obligation after the financial obligation is imposed. Fees under this  
18 subsection shall be deposited in the *[General Fund]* **Judicial Department Collections Account**  
19 **established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.**

20 (2) All circuit courts and appellate courts of this state, and all commissions, departments and  
21 divisions of the judicial branch of state government, *[that use the Department of Revenue or private*  
22 *collection agencies]* shall add a fee to any *[judgment referred for collection that includes a monetary*  
23 *obligation]* **monetary obligation** that the state court or the commission, department or division is

**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 charged with collecting, **that has been reduced to judgment and that remains unpaid 60 days**  
 2 **after the judgment has been entered.** The fee shall be added to cover the costs of collection  
 3 [*charged by the Department of Revenue or private collection agency*] and shall be added to the mone-  
 4 tary obligation without further notice to the debtor or further order of the court. The **amount of**  
 5 **the fee shall be established by order of the Chief Justice of the Supreme Court, but** may not  
 6 exceed the [*actual costs of collection charged by the Department of Revenue or private collection*  
 7 *agency*] **Department of Revenue's average cost of collection for all judgments, as determined**  
 8 **by the Department of Revenue on July 1 of every odd-numbered year.** Fees under this sub-  
 9 section shall be deposited in the Judicial Department Collections Account established under ORS  
 10 1.204 and may be used only for the purposes specified in ORS 1.204.

11 (3) [*A court may not waive or suspend*] **The Chief Justice may adopt policies governing the**  
 12 **waiver or suspension of** the fees required to be added to judgments under the provisions of this  
 13 section.

14 **SECTION 1a.** (1) **The amendments to ORS 1.202 (1) by section 1 of this 2009 Act providing**  
 15 **that fees collected under ORS 1.202 (1) be deposited in the Judicial Department Collections**  
 16 **Account apply to all such fees collected on or after January 1, 2010, without regard to the**  
 17 **date of entry of the judgment for which the fee is imposed.**

18 (2) **The amendments to ORS 1.202 (2) by section 1 of this 2009 Act apply only to judgments**  
 19 **entered on or after January 1, 2010.**

20 **SECTION 2.** ORS 1.204 is amended to read:

21 1.204. (1) The State Court Administrator may establish a collections and revenue management  
 22 program within the Judicial Department for the purpose of administering accounts and collections.  
 23 Subject to policies and procedures prescribed by the State Court Administrator, the collections and  
 24 revenue management program may collect, by any means authorized by law, all amounts owing to  
 25 the state that are subject to collection by the state courts or by a commission, department or divi-  
 26 sion in the judicial branch of state government. The State Court Administrator may establish a  
 27 separate unit within the program for the collection of parking fines in counties with populations of  
 28 more than 500,000.

29 (2) There is established within the General Fund the Judicial Department Collections Account.  
 30 The account shall consist of moneys deposited in the account under the provisions of subsection (3)  
 31 of this section **and ORS 1.202.** All moneys in the **Judicial Department Collections** Account are  
 32 continuously appropriated to the Judicial Department and may be used only for the purposes speci-  
 33 fied in subsection (3) of this section **and ORS 1.202.**

34 (3) All moneys collected by the collections and revenue management program established under  
 35 this section shall be deposited in the Judicial Department Collections Account. At the end of each  
 36 calendar month, the State Court Administrator shall distribute the amounts in the account in the  
 37 following order of priority:

38 (a) Except as provided in subsection (4) of this section, the collections and revenue management  
 39 program shall be reimbursed for actual costs and expenses of the program, including personnel ex-  
 40 penses, incurred in the administration and collection of accounts. The amount of reimbursement may  
 41 not exceed the actual costs and expenses incurred by the collections and revenue management pro-  
 42 gram. The State Court Administrator may designate a single percentage amount to be retained from  
 43 all moneys collected under the program, but must adjust that percentage amount periodically to  
 44 reflect actual program costs.

45 (b) All moneys not expended under paragraph (a) of this subsection shall be distributed as oth-

erwise provided by law for the amounts collected.

(4) The collections and revenue management program may not be reimbursed under subsection (3) of this section from any of the following amounts collected under the program, and all such amounts collected under the program shall be distributed as otherwise provided by law:

- (a) Restitution and compensatory fines paid under judgments in criminal actions;
- (b) Legal aid fees collected under ORS 21.480;
- (c) Law library fees collected under ORS 21.350;
- (d) Dispute resolution surcharges imposed under ORS 36.170; and
- (e) Fees imposed under ORS 21.112.

**(5) If at the end of any biennium the Judicial Department determines that the moneys available in the Judicial Department Collections Account exceed the amount necessary to fund the collections and revenue management program for a period of six months, the department shall transfer all moneys in excess of that amount in the General Fund.**

### APPELLATE MEDIATION FEES

**SECTION 3.** ORS 2.565 is amended to read:

2.565. The Appellate Mediation Program Revolving Account is established within the General Fund. The Judicial Department shall pay into the State Treasury [~~\$40~~] **\$85** of each filing fee paid by petitioners under the provisions of ORS 21.010, and [~~\$24~~] **\$85** of each filing fee paid by respondents under the provisions of ORS 21.010. The State Treasurer shall deposit the moneys in the General Fund to the credit of the Appellate Mediation Program Revolving Account. The moneys in the account are appropriated continuously to the Judicial Department, and may be used only for the purpose of administering the appellate mediation program established under the provisions of ORS 2.560, including payment of administrative costs and costs of providing mediation services to indigent parties.

**SECTION 3a. The amendments to ORS 2.565 by section 3 of this 2009 Act apply only to filings under ORS 21.010 made on or after January 1, 2010.**

### FILING FEES

**SECTION 4.** ORS 21.010 is amended to read:

21.010. (1) Except as provided in subsection [(2)] (3) of this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay [~~a filing fee of \$154 in the manner prescribed by ORS 19.265~~] **\$239 as the filing fee for a single party**. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator [~~the sum of \$154~~] **\$239 as the filing fee for a single party**. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

**(2) Except as provided in subsection (3) of this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay \$239 for each additional person named as an appellant or petitioner. The respondent in such case, and any other person appearing in the appeal, shall pay \$239 to the State Court Administrator for each additional person named as a respondent. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid. Fees**

1 **collected under this subsection shall be deposited by the clerk of the court in the State Ju-**  
2 **dicial Stabilization Fund.**

3 [(2)] (3) Filing and appearance fees may not be assessed in appeals from habeas corpus pro-  
4 ceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court  
5 under ORS 419A.200 and the involuntary commitment of persons determined to be mentally ill under  
6 ORS 426.135 or persons determined to be mentally retarded under ORS 427.295, or on judicial review  
7 of orders of the Psychiatric Security Review Board under ORS 161.385 (9) or orders of the State  
8 Board of Parole and Post-Prison Supervision.

9 [(3)] (4) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit  
10 court from a justice court or municipal court in an action alleging commission of a state offense  
11 designated as a violation or an action alleging violation of a city charter or ordinance, but not in  
12 an action alleging commission of a state crime.

13 [(4)] (5) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding  
14 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

15 **SECTION 4a. The amendments to ORS 21.010 by section 4 of this 2009 Act apply only to**  
16 **filings and appearances under ORS 21.010 made on or after January 1, 2010.**

17 **SECTION 5.** ORS 21.110 is amended to read:

18 21.110. (1)(a) Except as otherwise provided in this section, at the time of filing in the circuit  
19 court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall  
20 collect from the plaintiff, appellant or moving party the sum of [~~\$107~~] **\$117** as [~~a~~] **the flat and uni-**  
21 **form filing fee for a single party.** In addition, at the time of filing any appearance in any such  
22 action, suit or proceeding by any defendant or respondent appearing separately, or upon the part  
23 of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the  
24 sum of [~~\$107~~] **\$117** as [~~a~~] **the flat and uniform filing fee for a single party.**

25 **(b) Except as otherwise provided in this section, at the time of filing any civil action, suit**  
26 **or proceeding, including appeals, in the circuit court the clerk of the circuit court shall col-**  
27 **lect from the plaintiff, appellant or moving party the sum of \$117 for each additional party**  
28 **named in the pleading. In addition, at the time of filing any appearance in such action, suit**  
29 **or proceeding by a defendant or respondent appearing separately, or upon the part of de-**  
30 **fendants or respondents appearing jointly, the clerk shall collect from the party or parties**  
31 **the sum of \$117 for each additional party named in the pleading. Fees collected under this**  
32 **paragraph shall be deposited by the clerk of the court in the State Judicial Stabilization**  
33 **Fund.**

34 (2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 as a flat  
35 and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed,  
36 and shall collect the sum of \$68 as a flat and uniform filing fee from any defendant or respondent  
37 appearing separately, or upon the part of defendants or respondents appearing jointly, at the time  
38 of filing any appearance in the action:

39 (a) Actions for the recovery of money or damages only when the amount claimed does not ex-  
40 ceed \$10,000.

41 (b) Actions for the recovery of specific personal property when the value of the property claimed  
42 and the damages for the detention do not exceed \$10,000.

43 (c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out  
44 of contract, not exceeding \$10,000.

45 (d) Actions to enforce, marshal and foreclose liens upon personal property where the amount

1 claimed for such liens does not exceed \$10,000.

2 (e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the  
3 value of the property involved does not exceed \$10,000.

4 (f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed  
5 does not exceed \$10,000.

6 (3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the  
7 petitioner in a proceeding under ORS 181.823 or 181.826, at the time the petition is filed. Fees  
8 collected under this subsection shall be deposited into the Judicial Department Operating Account  
9 established in ORS 1.009.

10 (4) For purposes of subsection (2) of this section, the amount claimed, value of property, damages  
11 or any amount in controversy does not include any amount claimed as costs and disbursements or  
12 attorney fees as defined by ORCP 68 A.

13 (5) A pleading or other document shall be filed by the clerk only if the fee required under this  
14 section is paid by the person filing the document, or if a request for a fee waiver or deferral is  
15 granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee  
16 shall cover all services to be performed by the court or clerk in any such action, suit or proceeding,  
17 except where additional fees are specially authorized by law.

18 (6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-  
19 pearance that is subject to the filing fees established under subsection (2) of this section must in-  
20 clude in the caption of the pleading the following words: "Claim of not more than \$10,000."

21 (7) The fees imposed by this section do not apply to:

22 (a) Protective proceedings under ORS chapter 125;

23 (b) Proceedings for dissolution of marriage, annulment of marriage or separation;

24 (c) Filiation proceedings under ORS 109.124 to 109.230;

25 (d) Proceedings to determine custody or support of a child under ORS 109.103;

26 (e) Probate, adoption or change of name proceedings;

27 (f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee  
28 is provided by ORS 105.130; or

29 (g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the  
30 action or proceeding.

31 (8) The fees described in this section shall not be charged to a district attorney or to the Divi-  
32 sion of Child Support of the Department of Justice for the filing of any case, motion, document,  
33 stipulated order, process or other document relating to the provision of support enforcement ser-  
34 vices as described in ORS 25.080.

35 **(9) The fees in this section do not apply to applications filed under ORS 137.225 or**  
36 **419A.262.**

37 **SECTION 5a. The amendments to ORS 21.110 by section 5 of this 2009 Act apply only to**  
38 **filings and appearances under ORS 21.110 (1) made on or after January 1, 2010.**

39  
40 **HEARING FEES**

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42 **SECTION 6.** ORS 21.270 is amended to read:

43 21.270. (1) In any civil action, suit or proceeding in the circuit court, [*other than a protective*  
44 *proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding,*] trial fees  
45 shall be collected as provided in this section.

1 (2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for  
2 a trial on the merits without a jury, a trial fee of [\$77] **\$150** for each full or partial day of the trial.  
3 The amount of the fee for the first day of trial shall be collected in advance and is due and payable  
4 when the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of  
5 trial shall be collected on the day the trial concludes.

6 (3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than  
7 six persons, a jury trial fee of [\$193] **\$250** for each full or partial day of the trial. The clerk shall  
8 collect from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of [\$110]  
9 **\$175** for each full or partial day of the trial. The amount of the fee for the first day of trial shall  
10 be collected in advance and is due and payable when the action, suit or proceeding is set for trial  
11 by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial  
12 concludes.

13 (b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires  
14 a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not  
15 from the plaintiff or appellant.

16 (c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried  
17 by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee  
18 for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing  
19 party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation  
20 payable to the court, and may be made part of the judgment in the case by the clerk without further  
21 notice to the debtor or further order of the court.

22 (4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on  
23 which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the  
24 counterclaim, cross-claim or third party claim the trial fee or jury trial fee, whichever is applicable,  
25 for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party as-  
26 sserting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the  
27 party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury  
28 trial fee from the defending party and not from the asserting party.

29 (5) The fees provided for in this section include any reporting of the trial proceedings, but not  
30 the preparation of transcripts of a report.

31 (6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this  
32 section that are paid by a party shall be considered costs and disbursements and may be taxed and  
33 collected as other costs and disbursements by the prevailing party.

34 (7) A court shall order that a trial fee paid under the provisions of this section be refunded to  
35 the party that paid the fee if all claims in the action or proceeding are decided without the com-  
36 mencement of a trial and the party that paid the fee files a motion and affidavit requesting refund  
37 of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

38 **SECTION 6a. The amendments to ORS 21.270 by section 6 of this 2009 Act apply only to**  
39 **trials conducted on or after January 1, 2010.**

40 **SECTION 7.** ORS 21.275 is amended to read:

41 21.275. (1) In any civil action, suit or proceeding in the circuit court, [*other than a protective*  
42 *proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding,*] hearing fees  
43 for reported hearings shall be collected as provided in this section. There is no hearing fee under  
44 this section for a hearing not reported.

45 (2) As used in this section:

1 (a) "Hearing" means an actual appearance of one or more parties before the court for an ex-  
2 amination by the court without a jury, other than a trial or during a trial for which a trial fee is  
3 required, of issues of fact or law arising from a motion, application, petition or other document filed  
4 with the court by a moving party, but does not include a conference solely for the purpose of case  
5 settlement or case scheduling.

6 (b) "Moving party" means a party who files with the court a motion, application, petition or  
7 other document referred to in paragraph (a) of this subsection.

8 (c) "Nonmoving party" means a party other than a moving party.

9 (3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing  
10 is [~~\$33~~] **\$100** if the hearing period is not more than three hours or [~~\$77~~] **\$175** if the hearing period  
11 is more than three hours. The fee does not include the preparation of transcripts of a report.

12 (4) If a hearing in respect to the document filed by the moving party is required by statute or  
13 rule, the document shall indicate whether the moving party requests that the hearing be reported,  
14 and if reporting is requested, shall contain an estimate of the hearing period. If the moving party  
15 requests reporting, the moving party shall pay the applicable hearing fee, based upon the estimate  
16 of the hearing period, when the document is filed. If the moving party does not request reporting  
17 and a nonmoving party files a request for reporting with the court, the request shall contain an  
18 estimate of the hearing period, and the nonmoving party shall pay the applicable hearing fee, based  
19 upon the estimate of the hearing period, when the request is filed.

20 (5) If a hearing in respect to the document filed by the moving party is not required by statute  
21 or rule, the document shall indicate whether the moving party requests a hearing. The document  
22 also shall indicate whether the moving party requests that the hearing be reported, and if reporting  
23 is requested, shall contain an estimate of the hearing period. If the moving party requests reporting,  
24 the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period,  
25 when the document is filed. If the moving party does not request reporting and a nonmoving party  
26 files a request for reporting with the court, the request shall contain an estimate of the hearing  
27 period, and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the  
28 hearing period, when the request is filed.

29 (6) If a hearing in respect to the document filed by the moving party is not required by statute  
30 or rule or requested by the moving party and a nonmoving party files a request for hearing with the  
31 court, the request also shall indicate whether the nonmoving party requests that the hearing be  
32 reported, and if reporting is requested, shall contain an estimate of the hearing period. If the non-  
33 moving party requests reporting the nonmoving party shall pay the applicable hearing fee, based  
34 upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not  
35 request reporting and the moving party files a request for reporting with the court, the request shall  
36 contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee,  
37 based upon the estimate of the hearing period, when the request is filed.

38 (7) If a hearing in respect to the document filed by the moving party is not required by statute  
39 or rule or requested by a party, but the court on its own motion orders a hearing and a party files  
40 a request that the hearing be reported with the court, the request shall contain an estimate of the  
41 hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the  
42 hearing period, when the request is filed. If the court on its own motion orders a hearing, no party  
43 requests reporting and the court on its own motion orders that the hearing be reported, the court  
44 order shall contain an estimate of the hearing period, and each party shall pay an equal propor-  
45 tionate share of the applicable hearing fee, based upon the estimate of the hearing period, before the

1 hearing is held.

2 (8) No document containing a request for reporting or other request for reporting referred to in  
3 subsections (4) to (7) of this section shall be deemed filed unless the fee required by those sub-  
4 sections of the filing party is paid by the party.

5 (9) The fees provided for in this section that are paid by a party shall be considered costs and  
6 disbursements and may be taxed and collected as other costs and disbursements by the prevailing  
7 party.

8 **SECTION 7a. The amendments to ORS 21.275 by section 7 of this 2009 Act apply only to**  
9 **hearings conducted on or after January 1, 2010.**

10  
11 **NAME CHANGE FEE**

12  
13 **SECTION 8.** ORS 21.114 is amended to read:

14 21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

15 (a) In an adoption proceeding, a first appearance fee of \$39 from the party filing the petition for  
16 adoption, and a first appearance fee of \$39 from an objecting party appearing separately or objecting  
17 parties appearing jointly.

18 (b) In a change of name proceeding, a first appearance fee of [~~\$39~~] **\$100** from the party filing the  
19 application for change of name, and a first appearance fee of [~~\$39~~] **\$100** from an objecting party  
20 appearing separately or objecting parties appearing jointly.

21 (2) A pleading or other document shall be filed by the clerk only if the fee required under this  
22 section is paid or if a request for a fee waiver or deferral is granted by the court.

23 (3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of the  
24 court shall charge and collect in advance from the party having the affirmative of the issue, at the  
25 time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,  
26 a trial or hearing fee of \$39.

27 **SECTION 8a. The amendments to ORS 21.114 by section 8 of this 2009 Act apply only to**  
28 **filings and appearances under ORS 21.114 (1)(b) made on or after January 1, 2010.**

29  
30 **SMALL CLAIMS FEES**

31  
32 **SECTION 9.** ORS 46.570 is amended to read:

33 46.570. (1) In the small claims department of circuit court there shall be charged and collected  
34 in civil cases by the clerk of the court the following fees for the following purposes and services:

35 (a)(A) Plaintiff filing a claim, [~~\$26~~] **\$50** when the amount or value claimed does not exceed  
36 \$1,500, and [~~\$55~~] **\$100** when the amount or value claimed exceeds \$1,500; and

37 (B) Defendant demanding a hearing, [~~\$24~~] **\$50** when the amount or value claimed by plaintiff  
38 does not exceed \$1,500, and [~~\$50~~] **\$100** when the amount or value claimed by plaintiff exceeds \$1,500.

39 (b) Transcription of judgment from small claims department, \$7.

40 (c) Transfer of cause to circuit court on counterclaim, \$12.

41 (2) Except as otherwise provided in subsection (1) of this section, fees provided for in this sec-  
42 tion shall be collected in advance. A pleading or other document shall be filed by the clerk only if  
43 the required fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees  
44 provided for in this section may not be refunded.

45 **SECTION 9a. The amendments to ORS 46.570 by section 9 of this 2009 Act apply only to**



1 **filings and demands for hearing under ORS 46.570 (1)(a) made on or after January 1, 2010.**

2  
3 **FORCIBLE ENTRY AND DETAINER FEES**

4  
5 **SECTION 10.** ORS 105.130 is amended to read:

6 105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,  
7 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of  
8 this state.

9 (2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the  
10 clerk shall:

11 (a) Collect a filing fee of [~~\$13~~] **\$25**;

12 (b) Collect any other fee authorized by law or ordinance; and

13 (c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable  
14 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons  
15 and complaint for service.

16 (3) After a complaint is filed under subsection (2) of this section, if the defendant demands a  
17 trial, the plaintiff shall pay an additional filing fee of \$29 and the defendant shall pay a filing fee  
18 of \$42.

19 (4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to  
20 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to  
21 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent  
22 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

23 (5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an  
24 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

25 (a) The Attorney General consents to the representation of the agency by an officer or employee  
26 in the particular action or in the class of actions that includes the particular action; and

27 (b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the partic-  
28 ular type of action being conducted.

29 (6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect a  
30 surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees estab-  
31 lished by subsection (2) of this section and from a defendant at the time a defendant demands a trial  
32 in the action. The surcharge shall be deposited by the State Court Administrator into the State  
33 Treasury to the credit of the Housing and Community Services Department Low Income Rental  
34 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

35 (7) A document or pleading shall be filed by the clerk only if the fees and surcharges required  
36 under this section are paid by the person filing the document or pleading or if an application for a  
37 waiver or deferral of fees and court costs is granted by the court under ORS 21.680 to 21.698. Fees  
38 and surcharges provided for in this section may not be refunded.

39 **SECTION 10a. The amendments to ORS 105.130 by section 10 of this 2009 Act apply only**  
40 **to filings made under ORS 105.130 on or after January 1, 2010.**

41  
42 **SECURITY RELEASE DEPOSITS**

43  
44 **SECTION 11.** ORS 135.265 is amended to read:

45 135.265. (1) If the defendant is not released on personal recognizance under ORS 135.255, or

1 granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional  
 2 release, the magistrate shall set a security amount that will reasonably assure the defendant's ap-  
 3 pearance. The defendant shall execute the security release in the amount set by the magistrate.

4 (2) The defendant shall execute a release agreement and deposit with the clerk of the court  
 5 before which the proceeding is pending a sum of money equal to 10 percent of the security amount,  
 6 but in no event shall such deposit be less than \$25. The clerk shall issue a receipt for the sum de-  
 7 posited. Upon depositing this sum the defendant shall be released from custody subject to the con-  
 8 dition that the defendant appear to answer the charge in the court having jurisdiction on a day  
 9 certain and thereafter as ordered by the court until discharged or final order of the court. Once  
 10 security has been given and a charge is pending or is thereafter filed in or transferred to a court  
 11 of competent jurisdiction the latter court shall continue the original security in that court subject  
 12 to ORS 135.280 and 135.285. When conditions of the release agreement have been performed and the  
 13 defendant has been discharged from all obligations in the cause, the clerk of the court shall return  
 14 to the person shown by the receipt to have made the deposit, unless the court orders otherwise, 85  
 15 percent of the sum which has been deposited and shall retain as security release costs 15 percent,  
 16 but not less than \$5 [*nor more than \$200*], of the amount deposited. The interest that has accrued  
 17 on the full amount deposited shall also be retained by the clerk. The amount retained by the clerk  
 18 of a circuit court shall be paid over as directed by the State Court Administrator for deposit in the  
 19 Criminal Fine and Assessment Account created under ORS 137.300. The amount retained by a jus-  
 20 tice of the peace shall be deposited in the county treasury. The amount retained by the clerk of a  
 21 municipal court shall be deposited in the municipal corporation treasury. At the request of the de-  
 22 fendant the court may order whatever amount is repayable to defendant from such security amount  
 23 to be paid to defendant's attorney of record.

24 (3) Instead of the security deposit provided for in subsection (2) of this section the defendant  
 25 may deposit with the clerk of the court an amount equal to the security amount in cash, stocks,  
 26 bonds, or real or personal property situated in this state with equity not exempt owned by the de-  
 27 fendant or sureties worth double the amount of security set by the magistrate. The stocks, bonds,  
 28 real or personal property shall in all cases be justified by affidavit. The magistrate may further ex-  
 29 amine the sufficiency of the security as the magistrate considers necessary.

30  
 31 **PAYMENT PLAN FOR MONETARY OBLIGATIONS UNDER**  
 32 **CRIMINAL JUDGMENT**  
 33

34 **SECTION 12.** ORS 137.293 is amended to read:

35 137.293. (1) All fines, costs, assessments, restitution, compensatory fines and other monetary  
 36 obligations imposed upon a convicted person in a circuit, justice or municipal court, shall constitute  
 37 a single obligation on the part of the convicted person. The clerk shall subdivide the total obligation  
 38 as provided in ORS 137.295 according to the various component parts of the obligation and shall  
 39 credit and distribute accordingly, among those subdivisions, all moneys received.

40 (2) **Any payment plan established by a court for monetary obligations imposed in a**  
 41 **criminal action does not affect the ability of the Judicial Department to use any collection**  
 42 **method, including tax intercepts, that is otherwise available to the department.**

43  
 44 **TAX COURT FEES**  
 45

**SECTION 13.** ORS 305.490 is amended to read:

305.490. (1) Plaintiffs or petitioners filing a complaint or petition in the tax court shall pay a filing fee for each complaint or petition as follows:

(a) For a complaint or petition in the magistrate division, [~~\$25~~] **\$75**.

(b) For a complaint or petition in the regular division, [~~\$50~~] **\$150**.

(c) If a complaint or petition is specially designated under ORS 305.501 for hearing in the regular division, a fee of [~~\$50~~] **\$150**.

(2) Neither the State of Oregon, nor any county, school district, municipal corporation or other public corporation therein, nor any officer of any such public political division or corporation, appearing in the representative capacity of the officer of any public political division or corporation, shall be required to pay the fee prescribed under this section. The party entitled to costs and disbursements on such appeal shall recover from the opponent of the party the amount so paid upon order of the court, as in equity suits in the circuit court.

(3)(a) If, in any proceeding before the tax court judge involving taxes upon or measured by net income in which an individual taxpayer is a party, or involving inheritance taxes, the court grants a refund claimed by the executor or taxpayer or denies in part or wholly an additional assessment of taxes claimed by the Department of Revenue to be due from the estate or taxpayer, the court may allow the taxpayer, in addition to costs and disbursements, the following:

(A) Reasonable attorney fees for the proceeding under this subsection and for the prior proceeding in the matter, if any, before the magistrate; and

(B) Reasonable expenses as determined by the court. Expenses include accountant fees and fees of other experts incurred by the executor or individual taxpayer in preparing for and conducting the proceeding before the tax court judge and the prior proceeding in the matter, if any, before the magistrate.

(b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the Department of Revenue in the manner provided by ORS 305.790.

(4)(a) If, in any proceeding before the tax court judge involving ad valorem property taxation, exemptions, special assessments or omitted property, the court finds in favor of the taxpayer, the court may allow the taxpayer, in addition to costs and disbursements, the following:

(A) Reasonable attorney fees for the proceeding under this subsection and for the prior proceeding in the matter, if any, before the magistrate; and

(B) Reasonable expenses as determined by the court. Expenses include fees of experts incurred by the individual taxpayer in preparing for and conducting the proceeding before the tax court judge and the prior proceeding in the matter, if any, before the magistrate.

(b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the Department of Revenue in the manner provided by ORS 305.790.

(5) All fees and other moneys received or collected by the clerk by virtue of the office of the clerk shall be paid over to the State Treasurer and shall be held by the clerk in the General Fund as miscellaneous receipts.

**SECTION 13a. The amendments to ORS 305.490 by section 13 of this 2009 Act apply only to filings under ORS 305.490 made on or after January 1, 2010.**

#### MISCELLANEOUS FEES

**SECTION 14.** ORS 21.325 is amended to read:

1 21.325. In the circuit court there shall be charged and collected in advance by the clerk of the  
2 court the following fees for the following purposes and services:

3 (1) Making transcription of a judgment entered in the register, \$7.

4 (2) Filing and entering transcript of judgment, \$7.

5 (3) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
6 copy of child custody determination of another state filed as provided in ORS 109.787, \$39.

7 (4) Issuing [*writs of execution or*] writs of garnishment, [12] **\$25** for each writ.

8 **(5) Issuing writs of execution, \$35 for each writ.**

9 [(5)] **(6)** Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$6.

10 [(6)] **(7)** Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the or-  
11 der is issued by any court other than the court in which the original judgment was entered, \$4.

12 [(7)] **(8)** Issuing notices of restitution as provided in ORS 105.151, [3] **\$15** for each notice.

13 [(8)] **(9)** For any service the clerk may be required or authorized to perform and for which no  
14 fee is provided by law, such fees as the Chief Justice of the Supreme Court may establish or au-  
15 thorize, except that a fee may not be charged for location or inspection of court records.

16 **SECTION 14a. The amendments to ORS 21.325 by section 14 of this 2009 Act apply only**  
17 **to writs of garnishment, writs of execution and notices of restitution issued on or after**  
18 **January 1, 2010.**

19  
20 **STATE JUDICIAL STABILIZATION FUND**

21  
22 **SECTION 15. (1) The State Judicial Stabilization Fund is established, separate and dis-**  
23 **tinct from the General Fund. Interest earned by the State Judicial Stabilization Fund shall**  
24 **be credited to the fund. The fund shall consist of amounts deposited in the fund under:**

25 **(a) Section 16 of this 2009 Act;**

26 **(b) Section 17 of this 2009 Act;**

27 **(c) Section 18 of this 2009 Act;**

28 **(d) ORS 18.235 (12);**

29 **(e) ORS 21.010 (2);**

30 **(f) ORS 21.110 (1)(b);**

31 **(g) ORS 21.310 (3)(b);**

32 **(h) ORS 135.921 (3)(b);**

33 **(i) ORS 137.225 (2)(c);**

34 **(j) ORS 137.540 (7);**

35 **(k) ORS 419A.262 (1); and**

36 **(L) ORS 813.240 (2)(b).**

37 **(2) All amounts in the State Judicial Stabilization Fund are continuously appropriated to**  
38 **the Judicial Department for the purpose of paying expenses related to maintaining stable and**  
39 **equitable operation of the state court system.**

40 **(3) The department may accept gifts, grants or contributions from any source, whether**  
41 **public or private, for deposit in the State Judicial Stabilization Fund.**

42  
43 **EX PARTE ORDER OR JUDGMENT FEE**

44  
45 **SECTION 16. (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114**

1 or 21.310, the clerk of a circuit court shall collect the sum of \$10 for filing or submission of  
2 an ex parte order or judgment for the purpose of signature by the judge and entry.

3 (2) Fees collected under this section shall be deposited by the clerk of the court in the  
4 State Judicial Stabilization Fund.

5 **SECTION 16a.** The fee imposed under section 16 of this 2009 Act applies only to ex parte  
6 orders or judgments filed or submitted on or after January 1, 2010.

7  
8 **SETTLEMENT CONFERENCE FEE**

9  
10 **SECTION 17.** (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114  
11 or 21.310, in which a party requests a settlement conference before a judge, or in which a  
12 settlement conference before a judge is required by law or by the court, all parties to the  
13 proceeding shall pay a fee to the court before the conference is conducted as follows:

14 (a) \$50 for a settlement conference that is required by law or by the court; and

15 (b) \$100 for a settlement conference that is requested by a party.

16 (2) Fees collected under this section shall be deposited by the clerk of the court in the  
17 State Judicial Stabilization Fund.

18 **SECTION 17a.** The fee imposed under section 17 of this 2009 Act applies only to settle-  
19 ment conferences conducted on or after January 1, 2010.

20  
21 **CONTINUANCE FEE**

22  
23 **SECTION 18.** (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114  
24 or 21.310 or in any appeal or petition for review subject to a fee under ORS 21.010, the clerk  
25 of the court shall collect a fee of \$50 from any party filing a motion for continuance of a trial  
26 or a motion for an extension of time for the filing of a pleading or other document in the  
27 proceeding.

28 (2) Fees collected under this section shall be deposited by the clerk of the court in the  
29 State Judicial Stabilization Fund.

30 **SECTION 18a.** The fee imposed under section 18 of this 2009 Act applies only to motions  
31 for continuances or for extensions of time filed on or after January 1, 2010.

32  
33 **MOTION FOR SATISFACTION OF JUDGMENT FEE**

34  
35 **SECTION 19.** ORS 18.235 is amended to read:

36 18.235. (1) A judgment debtor, or a person with an interest in real property against which a  
37 judgment lien exists, may move the court for an order declaring that a money award has been sat-  
38 isfied or for a determination of the amount necessary to satisfy the money award, when the person  
39 making the motion cannot otherwise obtain a satisfaction document from a judgment creditor.

40 (2) Motions under this section shall be filed in the action in which the judgment was entered.  
41 All proceedings on the motion shall be conducted as part of the action in which the judgment was  
42 entered. An appearance fee may not be charged for filing a motion under this section.

43 (3) A motion under this section must include the following information, to the extent known to  
44 the person making the motion:

45 (a) The date of entry and principal amount of the money award.

1 (b) The rate of interest and the date the interest commenced to accrue.

2 (c) The date or dates and amounts of any payments on the money award.

3 (d) Any amount that the person believes remains to be paid on the money award, including any  
4 supporting mathematical calculations.

5 (e) Any other information necessary or helpful to the court in making its determination.

6 (4) A person making a motion under this section must serve the motion on the judgment credi-  
7 tor. If the person making the motion is not the judgment debtor, the person also must serve the  
8 motion and supporting affidavit on the judgment debtor. If an assignment of judgment document has  
9 been filed with the court under ORS 18.205, the motion must be served on the person named as the  
10 assignee of the judgment. Service on the judgment creditor and judgment debtor under this sub-  
11 section may be made as provided in ORCP 9 if the motion is filed within one year after entry of the  
12 judgment. If the motion is filed more than one year after entry of the judgment, or service is to be  
13 made on an assignee of the judgment, the motion may either be personally served as provided in  
14 ORCP 7, or be served by certified mail, return receipt requested with signed receipt. The court may  
15 waive service on any person under this subsection if the person making the motion files an affidavit  
16 with the court stating that the person cannot be found after diligent effort by the person making the  
17 motion. The person making the motion shall file proof of service with the court.

18 (5) A person served with a motion under this section must file a response within 21 days after  
19 service is made, or within such time as may be allowed by the court. The response must specifically  
20 identify those assertions in the motion that the person contests. The response must contain any in-  
21 formation or mathematical calculations necessary to support the contentions of the responding  
22 party.

23 (6) The court shall hear the motion not less than seven days after notice of hearing is given to  
24 the person making the motion and to the parties served with the motion. The court shall hear and  
25 determine the issues in a summary fashion without a jury. The court shall give the parties a rea-  
26 sonable opportunity to present evidence relevant to any factual issues.

27 (7) If the court determines that the person making the motion is entitled to relief, the court shall  
28 issue an order providing that the money award has been satisfied in full or, if the money award has  
29 not been satisfied in full, the specific amount that will satisfy the judgment on a specific date or  
30 within a period of time specified in the order.

31 (8) If the court finds that the judgment creditor willfully failed to provide a satisfaction docu-  
32 ment under ORS 18.225, the court may render a supplemental judgment awarding reasonable attor-  
33 ney fees to the person making the motion. The supplemental judgment may provide that the person  
34 making the motion may satisfy the judgment by paying such amounts the court determines to be  
35 necessary to satisfy the judgment less that sum of money the court awards as attorney fees.

36 (9) If the court finds that the money award has been satisfied, or if the amount specified by the  
37 court is paid to the court administrator within the time specified by the court, the court adminis-  
38 trator shall note in the register and in the judgment lien record that the money award has been  
39 satisfied in full. The court administrator shall deliver any money paid to the court administrator to  
40 the party or parties specified in the court's order.

41 (10) Upon request of the person making the motion, the court administrator shall issue a cer-  
42 tificate indicating that the money award has been satisfied. The certificate may be recorded in any  
43 County Clerk Lien Record in which the judgment was recorded under ORS 18.152. Recording of the  
44 certificate eliminates any judgment lien that was created by the recording of the judgment.

45 (11) At least five days before filing a motion under this section, the person must serve by per-

1 sonal delivery or first class mail a copy of the motion on the Administrator of the Division of Child  
2 Support of the Department of Justice, or on the branch office of the Department of Justice providing  
3 support services to the county in which the motion will be made, if:

- 4 (a) The motion relates to satisfaction of a support award; and
- 5 (b) Child support rights, as defined in ORS 25.010, for the judgment creditor have been assigned  
6 to the state.

7 **(12) A person filing a motion under this section must pay a fee to the court of \$50 at the**  
8 **time the motion is filed. Fees collected under this subsection shall be deposited by the clerk**  
9 **of the court in the State Judicial Stabilization Fund.**

10 [(12)] (13) This section does not apply to justice courts, municipal courts or county courts per-  
11 forming judicial functions.

12 **SECTION 19a. The amendments to ORS 18.235 by section 19 of this 2009 Act apply only**  
13 **to motions filed under ORS 18.235 on or after January 1, 2010.**

14  
15 **PROBATE ACCOUNTING FEES**

16  
17 **SECTION 20.** ORS 21.310 is amended to read:

18 21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk  
19 of the court shall charge and collect the following fees for the filing of the initial documents in any  
20 probate proceeding, including petitions for the appointment of personal representatives, probate of  
21 wills and contest of wills, or in any conservatorship proceeding:

22  
23  
24 Where the amount of the estate is:

- 25 1. Not more than \$10,000—a fee of \$23.
- 26 2. More than \$10,000 and not more than \$25,000—a fee of \$77.
- 27 3. More than \$25,000 and not more than \$50,000—a fee of \$154.
- 28 4. More than \$50,000 and not more than \$100,000—a fee of \$231.
- 29 5. More than \$100,000 and not more than \$500,000—a fee of \$308.
- 30 6. More than \$500,000 and not more than \$1,000,000—a fee of \$385.
- 31 7. More than \$1,000,000—a fee of \$462.

32  
33  
34 **(2) In a circuit court, the clerk shall charge and collect the following fees for the filing**  
35 **of an annual or final accounting in a probate proceeding or a conservatorship proceeding:**

36  
37  
38 **Where the amount of the estate is:**

- 39 1. **Not more than \$500,000—a fee of \$100.**
- 40 2. **More than \$500,000 and not more than \$1 million—a fee of \$200.**
- 41 3. **More than \$1 million—a fee of \$300.**

42  
43  
44 [(2)] (3)(a) In determining fees under [subsection (1)] **subsections (1) and (2)** of this section in  
45 a probate proceeding, the amount of a settlement in a wrongful death action brought for the benefit

1 of the decedent's surviving spouse or dependents is not part of the estate.

2 **(b) Fees collected under subsection (2) of this section shall be deposited by the clerk of**  
3 **the court in the State Judicial Stabilization Fund.**

4 [(3)] (4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$23  
5 for the filing of the initial documents in any guardianship proceeding.

6 [(4)] (5) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$8 at  
7 the time of filing a will without a petition for probate.

8 [(5)] (6) At the time of filing any answer, motion or objection in a probate proceeding or pro-  
9 tective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay  
10 a fee of \$19 to the clerk.

11 [(6)] (7) A pleading or other document shall be filed by the clerk only if the fee required under  
12 this section is paid or if a request for a fee waiver or deferral is granted by the court.

13 [(7)] (8) In any probate proceeding or protective proceeding under ORS chapter 125 in a court  
14 having probate jurisdiction, the clerk shall charge and collect in advance from the party having the  
15 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues  
16 of fact or law involved therein, a trial or hearing fee of \$39.

17 **SECTION 20a. The amendments to ORS 21.310 by section 20 of this 2009 Act apply only**  
18 **to accountings filed on or after January 1, 2010.**

19 **SECTION 21.** ORS 125.060 is amended to read:

20 125.060. (1) The notices required by this section must be given to all persons whose identities  
21 and addresses can be ascertained in the exercise of reasonable diligence by the person required to  
22 give the notice.

23 (2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other pro-  
24 tective order must be given by the petitioner to the following persons:

25 (a) The respondent, if the respondent has attained 14 years of age.

26 (b) The spouse, parents and adult children of the respondent.

27 (c) If the respondent does not have a spouse, parent or adult child, the person or persons most  
28 closely related to the respondent.

29 (d) Any person who is cohabiting with the respondent and who is interested in the affairs or  
30 welfare of the respondent.

31 (e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the  
32 respondent by a court of any state, any trustee for a trust established by or for the respondent, any  
33 person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and  
34 any person acting as attorney-in-fact for the respondent under a power of attorney.

35 (f) If the respondent is a minor, the person who has exercised principal responsibility for the  
36 care and custody of the respondent during the 60-day period before the filing of the petition.

37 (g) If the respondent is a minor and has no living parents, any person nominated to act as  
38 fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

39 (h) If the respondent is receiving moneys paid or payable by the United States through the De-  
40 partment of Veterans Affairs, a representative of the United States Department of Veterans Affairs  
41 regional office that has responsibility for the payments to the protected person.

42 (i) If the respondent is receiving moneys paid or payable for public assistance provided under  
43 ORS chapter 411 or 414 by the State of Oregon through the Department of Human Services, a rep-  
44 resentative of the department.

45 (j) If the respondent is committed to the legal and physical custody of the Department of Cor-



1 rections, the Attorney General and the superintendent or other officer in charge of the facility in  
2 which the respondent is confined.

3 (k) If the respondent is a foreign national, the consulate for the respondent's country.

4 (L) Any other person that the court requires.

5 (3) Notice of a motion for the termination of the protective proceedings, for removal of a  
6 fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's  
7 actions or for protective orders in addition to those sought in the petition must be given by the  
8 person making the motion to the following persons:

9 (a) The protected person, if the protected person has attained 14 years of age.

10 (b) Any person who has filed a request for notice in the proceedings.

11 (c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the  
12 protected person.

13 (d) If the protected person is receiving moneys paid or payable by the United States through the  
14 Department of Veterans Affairs, a representative of the United States Department of Veterans Af-  
15 fairs regional office that has responsibility for the payments to the protected person.

16 (e) If the protected person is committed to the legal and physical custody of the Department of  
17 Corrections, the Attorney General and the superintendent or other officer in charge of the facility  
18 in which the protected person is confined.

19 (f) Any other person that the court requires.

20 (4) A request for notice under subsection (3)(b) of this section must be in writing and include  
21 the name, address and phone number of the person requesting notice. A copy of the request must  
22 be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has  
23 been appointed. The original request must be filed with the court. The person filing the request must  
24 pay the fee specified by ORS 21.310 [(5)] (6).

25 (5) A person who files a request for notice in the proceedings in the manner provided by sub-  
26 section (4) of this section is entitled to receive notice from the fiduciary of any motion specified in  
27 subsection (3) of this section and of any other matter to which a person listed in subsection (2) of  
28 this section is entitled to receive notice under a specific provision of this chapter.

29 (6) If the Department of Human Services is nominated as guardian for the purpose of consenting  
30 to the adoption of a minor, the notice provided for in this section must also be given to the minor's  
31 brothers, sisters, aunts, uncles and grandparents.

32 (7) In addition to the requirements of subsection (2) of this section, notice of the filing of a pe-  
33 tition for the appointment of a guardian for a person who is alleged to be incapacitated must be  
34 given by the petitioner to the following persons:

35 (a) Any attorney who is representing the respondent in any capacity.

36 (b) If the respondent is a resident of a nursing home or residential facility, or if the person  
37 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-  
38 cility, the office of the Long Term Care Ombudsman.

39 (c) If the respondent is a resident of a mental health treatment facility or a residential facility  
40 for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends  
41 to place the respondent in such a facility, the system described in ORS 192.517 (1).

42 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding  
43 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this  
44 section must be given by the person making the motion to the following persons:

45 (a) Any attorney who represented the protected person at any time during the protective pro-

1 ceeding.

2 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion  
3 seeks authority to place the protected person in a nursing home or residential facility, the office of  
4 the Long Term Care Ombudsman.

5 (c) If the protected person is a resident of a mental health treatment facility or a residential  
6 facility for individuals with developmental disabilities, or if the motion seeks authority to place the  
7 protected person in such a facility, the system described in ORS 192.517 (1).

8 (9) A respondent or protected person may not waive the notice required under this section.

9 (10) The requirement that notice be served on an attorney for a respondent or protected person  
10 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney  
11 receiving the notice to represent the respondent or protected person in the protective proceeding.

12  
13 **DIVERSION PROGRAM ADMINISTRATION FEE**

14  
15 **SECTION 22.** ORS 135.921 is amended to read:

16 135.921. (1) The filing fee paid by a defendant at the time of filing a petition for a possession  
17 of marijuana diversion agreement as provided in ORS 135.909 shall be \$233 and shall be ordered paid  
18 as follows if the petition is allowed:

19 (a) \$123 to the Department of Revenue for deposit in the Criminal Fine and Assessment Account;  
20 and

21 (b) \$110 to be distributed as provided for the disposition of costs under ORS 153.630.

22 (2) If less than the \$233 filing fee is paid to the court by the defendant under subsection (1) of  
23 this section, the money actually received shall be allocated in the amounts provided first to the  
24 State Treasurer and the remainder as provided for the disposition of costs under ORS 153.630.

25 (3) In addition to the filing fee under subsection (1) of this section, the court shall order the  
26 defendant to pay:

27 (a) \$90 directly to the agency or organization providing the diagnostic assessment; **and**

28 (b) **\$100 to the court as a program administration fee. Fees collected under this para-**  
29 **graph shall be deposited by the clerk of the court in the State Judicial Stabilization Fund.**

30 (4) The Chief Justice of the Supreme Court may require that any or all fees distributed by cir-  
31 cuit courts under this section be distributed through the offices of the State Court Administrator.

32 **SECTION 22a. The amendments to ORS 135.921 by section 22 of this 2009 Act apply only**  
33 **to petitions filed under ORS 135.921 on or after January 1, 2010.**

34 **SECTION 23.** ORS 813.240 is amended to read:

35 813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while  
36 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be \$261 and  
37 shall be ordered paid as follows if the petition is allowed:

38 (a) \$136 to be credited and distributed under ORS 137.295 as an obligation payable to the state;

39 (b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

40 (c) \$25 to be paid to the Director of Human Services for deposit in the Intoxicated Driver Pro-  
41 gram Fund created under ORS 813.270, to be used for purposes of the fund.

42 (2) In addition to the filing fee under subsection (1) of this section, the court shall order the  
43 defendant to pay:

44 (a) \$150 directly to the agency or organization providing the diagnostic assessment; **and**

45 (b) **\$100 to the court as a program administration fee. Fees collected under this para-**

1 **graph shall be deposited by the clerk of the court in the State Judicial Stabilization Fund.**

2 **SECTION 23a. The amendments to ORS 813.240 by section 23 of this 2009 Act apply only**  
3 **to petitions filed under ORS 813.240 on or after January 1, 2010.**

4  
5 **EXPUNCTION FEES**

6  
7 **SECTION 24.** ORS 137.225 is amended to read:

8 137.225. (1)(a) At any time after the lapse of three years from the date of pronouncement of  
9 judgment, any defendant who has fully complied with and performed the sentence of the court and  
10 whose conviction is described in subsection (5) of this section by motion may apply to the court  
11 where the conviction was entered for entry of an order setting aside the conviction; or

12 (b) At any time after the lapse of one year from the date of any arrest, if no accusatory in-  
13 strument was filed, or at any time after an acquittal or a dismissal of the charge, the arrested per-  
14 son may apply to the court that would have jurisdiction over the crime for which the person was  
15 arrested, for entry of an order setting aside the record of the arrest. For the purpose of computing  
16 the one-year period, time during which the arrested person has secreted himself or herself within  
17 or without the state is not included.

18 (2)(a) A copy of the motion and a full set of the defendant's fingerprints shall be served upon  
19 the office of the prosecuting attorney who prosecuted the crime or violation, or who had authority  
20 to prosecute the charge if there was no accusatory instrument filed, and opportunity shall be given  
21 to contest the motion. The fingerprint card with the notation "motion for setting aside conviction,"  
22 or "motion for setting aside arrest record" as the case may be, shall be forwarded to the Department  
23 of State Police bureau of criminal identification. Information resulting from the fingerprint search  
24 along with the fingerprint card shall be returned to the prosecuting attorney.

25 (b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction  
26 under this section, the prosecuting attorney shall provide a copy of the motion and notice of the  
27 hearing date to the victim, if any, of the crime by mailing a copy of the motion and notice to the  
28 victim's last-known address.

29 **(c) A person making an application under subsection (1) of this section must pay a fee**  
30 **to the court of \$100 at the time the application is filed. Fees collected under this paragraph**  
31 **shall be deposited by the clerk of the court in the State Judicial Stabilization Fund.**

32 [(c)] (d) **In addition to the fee required under subsection (1)(c) of this section,** when a  
33 person makes [*a motion*] **an application** under subsection (1)(a) of this section, the person must pay  
34 a fee of \$80. The person shall attach a certified check payable to the Department of State Police in  
35 the amount of \$80 to the fingerprint card that is served upon the prosecuting attorney. The office  
36 of the prosecuting attorney shall forward the check with the fingerprint card to the Department of  
37 State Police bureau of criminal identification.

38 (3) Upon hearing the motion, the court may require the filing of such affidavits and may require  
39 the taking of such proofs as it deems proper. The court shall allow the victim to make a statement  
40 at the hearing. Except as otherwise provided in subsection (11) of this section, if the court deter-  
41 mines that the circumstances and behavior of the applicant from the date of conviction, or from the  
42 date of arrest as the case may be, to the date of the hearing on the motion warrant setting aside  
43 the conviction, or the arrest record as the case may be, it shall enter an appropriate order that shall  
44 state the original arrest charge and the conviction charge, if any and if different from the original,  
45 date of charge, submitting agency and disposition. The order shall further state that positive iden-

1 tification has been established by the bureau and further identified as to state bureau number or  
2 submitting agency number. Upon the entry of the order, the applicant for purposes of the law shall  
3 be deemed not to have been previously convicted, or arrested as the case may be, and the court  
4 shall issue an order sealing the record of conviction and other official records in the case, including  
5 the records of arrest whether or not the arrest resulted in a further criminal proceeding.

6 (4) The clerk of the court shall forward a certified copy of the order to such agencies as directed  
7 by the court. A certified copy must be sent to the Department of Corrections when the person has  
8 been in the custody of the Department of Corrections. Upon entry of the order, the conviction, ar-  
9 rest or other proceeding shall be deemed not to have occurred, and the applicant may answer ac-  
10 cordingly any questions relating to its occurrence.

11 (5) The provisions of subsection (1)(a) of this section apply to a conviction of:

12 (a) A Class C felony, except for criminal mistreatment in the first degree under ORS 163.205  
13 when it would constitute child abuse, as defined in ORS 419B.005, or any sex crime.

14 (b) The crime of possession of the narcotic drug marijuana when that crime was punishable as  
15 a felony only.

16 (c) A crime punishable as either a felony or a misdemeanor, in the discretion of the court, except  
17 for:

18 (A) Any sex crime; and

19 (B) The following crimes when they would constitute child abuse as defined in ORS 419B.005:

20 (i) Criminal mistreatment in the first degree under ORS 163.205; and

21 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

22 (d) A misdemeanor, including a violation of a municipal ordinance, for which a jail sentence may  
23 be imposed, except for endangering the welfare of a minor under ORS 163.575 (1)(a) when it would  
24 constitute child abuse, as defined in ORS 419B.005, or any sex crime.

25 (e) A violation, whether under state law or local ordinance.

26 (f) An offense committed before January 1, 1972, that if committed after that date would be:

27 (A) A Class C felony, except for any sex crime or for the following crimes when they would  
28 constitute child abuse as defined in ORS 419B.005:

29 (i) Criminal mistreatment in the first degree under ORS 163.205; and

30 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

31 (B) A crime punishable as either a felony or a misdemeanor, in the discretion of the court, ex-  
32 cept for any sex crime or for the following crimes when they would constitute child abuse as defined  
33 in ORS 419B.005:

34 (i) Criminal mistreatment in the first degree under ORS 163.205; and

35 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

36 (C) A misdemeanor, except for endangering the welfare of a minor under ORS 163.575 (1)(a)  
37 when it would constitute child abuse, as defined in ORS 419B.005, or any sex crime.

38 (D) A violation.

39 (6) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section  
40 do not apply to:

41 (a) A person convicted of, or arrested for, a state or municipal traffic offense.

42 (b) A person convicted, within the 10-year period immediately preceding the filing of the motion  
43 pursuant to subsection (1) of this section, of any other offense, excluding motor vehicle violations,  
44 whether or not the other conviction is for conduct associated with the same criminal episode that  
45 caused the arrest or conviction that is sought to be set aside. Notwithstanding subsection (1) of this

1 section, a conviction that has been set aside under this section shall be considered for the purpose  
2 of determining whether this paragraph is applicable.

3 (c) A person who at the time the motion authorized by subsection (1) of this section is pending  
4 before the court is under charge of commission of any crime.

5 (7) The provisions of subsection (1)(b) of this section do not apply to a person arrested within  
6 the three-year period immediately preceding the filing of the motion for any offense, excluding motor  
7 vehicle violations, and excluding arrests for conduct associated with the same criminal episode that  
8 caused the arrest that is sought to be set aside.

9 (8) The provisions of subsection (1) of this section apply to convictions and arrests that occurred  
10 before, as well as those that occurred after, September 9, 1971. There is no time limit for making  
11 an application.

12 (9) For purposes of any civil action in which truth is an element of a claim for relief or affir-  
13 mative defense, the provisions of subsection (3) of this section providing that the conviction, arrest  
14 or other proceeding be deemed not to have occurred do not apply and a party may apply to the  
15 court for an order requiring disclosure of the official records in the case as may be necessary in the  
16 interest of justice.

17 (10) Upon motion of any prosecutor or defendant in a case involving records sealed under this  
18 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-  
19 pening and disclosure of any records sealed under this section for the limited purpose of assisting  
20 the investigation of the movant. However, such an order has no other effect on the orders setting  
21 aside the conviction or the arrest record.

22 (11) Unless the court makes written findings by clear and convincing evidence that granting the  
23 motion would not be in the best interests of justice, the court shall grant the motion and enter an  
24 order as provided in subsection (3) of this section if the defendant has been convicted of one of the  
25 following crimes and is otherwise eligible for relief under this section:

- 26 (a) Abandonment of a child, ORS 163.535.
- 27 (b) Attempted assault in the second degree, ORS 163.175.
- 28 (c) Assault in the third degree, ORS 163.165.
- 29 (d) Coercion, ORS 163.275.
- 30 (e) Criminal mistreatment in the first degree, ORS 163.205.
- 31 (f) Attempted escape in the first degree, ORS 162.165.
- 32 (g) Incest, ORS 163.525, if the victim was at least 18 years of age.
- 33 (h) Intimidation in the first degree, ORS 166.165.
- 34 (i) Attempted kidnapping in the second degree, ORS 163.225.
- 35 (j) Criminally negligent homicide, ORS 163.145.
- 36 (k) Attempted robbery in the second degree, ORS 164.405.
- 37 (L) Robbery in the third degree, ORS 164.395.
- 38 (m) Supplying contraband, ORS 162.185.
- 39 (n) Unlawful use of a weapon, ORS 166.220.

40 (12) As used in this section, "sex crime" has the meaning given that term in ORS 181.594.

41 **SECTION 24a. The amendments to ORS 137.225 by section 24 of this 2009 Act apply only**  
42 **to applications made under ORS 137.225 (1) on or after January 1, 2010.**

43 **SECTION 25.** ORS 419A.262 is amended to read:

44 419A.262. (1) An expunction proceeding shall be commenced **by filing an application** in the  
45 county where the subject person resided at the time of the most recent termination. **A fee of \$100**

1 **must be paid to the court when the application is filed. Fees collected under this subsection**  
2 **shall be deposited by the clerk of the court in the State Judicial Stabilization Fund.**

3 (2) Upon application of either a person who is the subject of a record or a juvenile department,  
4 or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter  
5 is contested, it finds that:

6 (a) At least five years have elapsed since the date of the person's most recent termination;

7 (b) Since the date of the most recent termination, the person has not been convicted of a felony  
8 or a Class A misdemeanor;

9 (c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are  
10 pending against the person;

11 (d) The person is not within the jurisdiction of any juvenile court on the basis of a petition al-  
12 leging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; and

13 (e) The juvenile department is not aware of any pending investigation of the conduct of the  
14 person by any law enforcement agency.

15 (3) In the case of an application by the juvenile department or of the court acting upon its own  
16 motion, expunction shall not be ordered if actual notice of expunction has not been given to the  
17 person in accordance with subsection (10) of this section unless the person has reached 21 years of  
18 age.

19 (4) When a person who is the subject of a record kept by a juvenile court or juvenile department  
20 reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order  
21 expunction if:

22 (a) The person never has been found to be within the jurisdiction of the court; or

23 (b) The conditions of subsection (2) of this section have been met.

24 (5) Expunction shall not be ordered under this section if actual notice of expunction has not  
25 been given to the person in accordance with subsection (10) of this section unless the person has  
26 reached 21 years of age.

27 (6) Subsections (4) and (5) of this section apply only to cases resulting in termination after  
28 September 13, 1975.

29 (7) Notwithstanding subsections (2) and (4) to (6) of this section, upon application of a person  
30 who is the subject of a record kept by a juvenile court or juvenile department, upon application of  
31 the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter  
32 is contested, may order expunction of all or any part of the person's record if it finds that to do so  
33 would be in the best interests of the person and the public. In the case of an application by the ju-  
34 venile department or of the court acting upon its own motion, expunction shall not be ordered if  
35 actual notice of expunction has not been given to the person in accordance with subsection (10) of  
36 this section unless the person has reached 21 years of age.

37 (8) When an expunction proceeding is commenced by application of the person whose records  
38 are to be expunged, the person shall set forth as part of the application the names of the juvenile  
39 courts, juvenile departments, institutions and law enforcement and other agencies that the person  
40 has reason to believe possess an expungible record of the person. The juvenile department shall  
41 provide the names and addresses of the juvenile courts, juvenile departments, institutions and law  
42 enforcement and other agencies that a reasonable search of department files indicates have  
43 expungible records.

44 (9) When an expunction proceeding is commenced by application of the juvenile department or  
45 upon the court's own motion, the application or motion shall set forth the names and addresses of

1 the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that  
2 a reasonable search of department files indicates have expungible records and those provided by the  
3 subject person.

4 (10)(a) Notice and a copy of an application for expunction under subsections (2) to (7) of this  
5 section shall be given to:

6 (A) The district attorney of the county in which the expunction proceeding is commenced and  
7 the district attorney of each county in which the record sought to be expunged is kept; and

8 (B) The person who is the subject of the record if the person has not initiated the expunction  
9 proceeding.

10 (b) A district attorney who receives notice under this subsection shall notify the victim of the  
11 acts that resulted in the disposition that is the subject of the application for expunction and shall  
12 mail a copy of the application for expunction to the victim's last known address.

13 (11) Within 30 days of receiving the notice of application for expunction under subsection (10)  
14 of this section, a district attorney shall give written notice of any objection and the grounds therefor  
15 to the person whose records are to be expunged and to the juvenile court. If no objection is filed  
16 the court may decide the issue of expunction either without a hearing or after full hearing pursuant  
17 to subsections (12) to (15) of this section.

18 (12) When an expunction is pending pursuant to subsections (2) to (7) of this section, the court  
19 may proceed with or without a hearing, except that:

20 (a) The court may not enter an expunction judgment without a hearing if a timely objection to  
21 expunction has been filed pursuant to subsection (11) of this section; and

22 (b) The court may not deny an expunction without a hearing if the proceeding is based on an  
23 application of the subject.

24 (13)(a) Notice of a hearing on a pending expunction shall be served on the subject and any dis-  
25 trict attorney filing a timely objection pursuant to subsection (11) of this section.

26 (b) When a district attorney receives notice of a hearing for expunction of a record concerning  
27 a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted  
28 in the disposition that is the subject of the application for expunction requests, the district attorney  
29 shall mail notice of the hearing to the victim's last-known address.

30 (14) The court shall conduct a hearing on a pending expunction in accord with the provisions  
31 of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and  
32 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as  
33 defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting  
34 expunction.

35 (15) At the conclusion of a hearing on a pending expunction, the court shall issue judgment  
36 granting or denying expunction.

37 (16) The juvenile court or juvenile department shall send a copy of an expunction judgment to  
38 each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall  
39 comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile  
40 department with an indorsement indicating compliance.

41 (17) When all agencies subject to an expunction judgment have indicated their compliance or in  
42 any event no later than six weeks following the date the judgment was delivered as required by  
43 subsection (16) of this section, the juvenile court shall provide the person who is the subject of the  
44 record with a copy of the expunction judgment, a list of complying and noncomplying agencies, and  
45 a written notice of rights and effects of expunction. The juvenile court and juvenile department then

1 shall expunge forthwith all records which they possess and which are subject to the judgment, ex-  
2 cept the original expunction judgment and the list of complying and noncomplying agencies which  
3 must be preserved under seal.

4 (18) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit, munic-  
5 ipal and justice courts, and the district and city attorneys of this state, are bound by an expunction  
6 judgment of any juvenile court of appropriate jurisdiction in this state issuing an expunction judg-  
7 ment.

8 (19) Upon entry of an expunction judgment, the contact that is the subject of the expunged re-  
9 cord shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall  
10 respond to any inquiry about the contact by indicating that no record or reference concerning the  
11 contact exists.

12 (20) A person who is the subject of a record that has been expunged under this section may  
13 assert that the record never existed and that the contact, which was the subject of the record, never  
14 occurred without incurring a penalty for perjury or false swearing under the laws of this state.

15 (21) Juvenile courts, by court rule or by order related to a particular matter, may direct that  
16 records concerning a subject person be destroyed. No such records shall be destroyed until at least  
17 three years have elapsed after the date of the subject's most recent termination. In the event the  
18 record has been expunged, the expunction judgment and list of complying and noncomplying agen-  
19 cies may not be destroyed, but shall be preserved under seal. The destruction of records under this  
20 subsection does not constitute expunction.

21 (22) An expunction judgment and list of complying and noncomplying agencies shall be released  
22 from confidentiality only on order of the court originating the expunction judgment, based on a  
23 finding that review of a particular case furthers compliance with the expunction provisions of this  
24 chapter.

25 (23) A subject has a right of action against any person who intentionally violates the  
26 confidentiality provisions of this section. In any such proceeding, punitive damages up to an amount  
27 of \$1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled  
28 to costs and reasonable attorney fees.

29 (24) Intentional violation of the confidentiality provisions of this section by a public employee  
30 is cause for dismissal.

31 (25) A person who intentionally releases all or part of an expunged record commits a Class C  
32 misdemeanor.

33 **SECTION 25a. The amendments to ORS 419A.262 by section 25 of this 2009 Act apply only**  
34 **to applications made under ORS 419A.262 (1) on or after January 1, 2010.**

35  
36 **BENCH PROBATION FEES AND PROBATION**  
37 **VIOLATION ASSESSMENTS**  
38

39 **SECTION 26.** ORS 137.540 is amended to read:

40 137.540. (1) The court may sentence the defendant to probation subject to the following general  
41 conditions unless specifically deleted by the court. The probationer shall:

42 (a) Pay supervision fees, fines, restitution or other fees ordered by the court.

43 (b) Not use or possess controlled substances except pursuant to a medical prescription.

44 (c) Submit to testing of breath or urine for controlled substance or alcohol use if the probationer  
45 has a history of substance abuse or if there is a reasonable suspicion that the probationer has ille-



1 gally used controlled substances.

2 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow  
3 the recommendations of the evaluator if there are reasonable grounds to believe there is a history  
4 of substance abuse.

5 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-  
6 ment of Corrections or a county community corrections agency.

7 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a  
8 full-time combination of both. Any waiver of this requirement must be based on a finding by the  
9 court stating the reasons for the waiver.

10 (g) Change neither employment nor residence without prior permission from the Department of  
11 Corrections or a county community corrections agency.

12 (h) Permit the parole and probation officer to visit the probationer or the probationer's work  
13 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-  
14 dence occupied by or under the control of the probationer.

15 (i) Consent to the search of person, vehicle or premises upon the request of a representative of  
16 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of  
17 a violation will be found, and submit to fingerprinting or photographing, or both, when requested  
18 by the Department of Corrections or a county community corrections agency for supervision pur-  
19 poses.

20 (j) Obey all laws, municipal, county, state and federal.

21 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections  
22 or a county community corrections agency.

23 (L) Not possess weapons, firearms or dangerous animals.

24 (m) If recommended by the supervising officer, successfully complete a sex offender treatment  
25 program approved by the supervising officer and submit to polygraph examinations at the direction  
26 of the supervising officer if the probationer:

27 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

28 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

29 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex  
30 offense under ORS 163.305 to 163.467 if committed in this state.

31 (n) Participate in a mental health evaluation as directed by the supervising officer and follow  
32 the recommendation of the evaluator.

33 (o) Report as required and abide by the direction of the supervising officer.

34 (p) If required to report as a sex offender under ORS 181.596, report with the Department of  
35 State Police, a chief of police, a county sheriff or the supervising agency:

36 (A) When supervision begins;

37 (B) Within 10 days of a change in residence;

38 (C) Once each year within 10 days of the probationer's date of birth;

39 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
40 institution of higher education; and

41 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
42 education.

43 (2) In addition to the general conditions, the court may impose any special conditions of pro-  
44 bation that are reasonably related to the crime of conviction or the needs of the probationer for the  
45 protection of the public or reformation of the probationer, or both, including, but not limited to, that

1 the probationer shall:

2 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after  
3 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence  
4 or to the premises thereof, or be subject to any combination of such confinement and restriction,  
5 such confinement or restriction or combination thereof to be for a period not to exceed one year  
6 or one-half of the maximum period of confinement that could be imposed for the offense for which  
7 the defendant is convicted, whichever is the lesser.

8 (b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be  
9 subject to other custodial sanctions under community supervision, or both, as provided by rules of  
10 the Oregon Criminal Justice Commission.

11 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as  
12 specifically ordered by the court in order to pay restitution.

13 (3) When a person who is a sex offender is released on probation, the court shall impose as a  
14 special condition of probation that the person not reside in any dwelling in which another sex  
15 offender who is on probation, parole or post-prison supervision resides, without the approval of the  
16 person's supervising parole and probation officer, or in which more than one other sex offender who  
17 is on probation, parole or post-prison supervision resides, without the approval of the director of the  
18 probation agency that is supervising the person or of the county manager of the Department of  
19 Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole  
20 and probation officer of a person subject to the requirements of this subsection shall review the  
21 person's living arrangement with the person's sex offender treatment provider to ensure that the  
22 arrangement supports the goals of offender rehabilitation and community safety. As used in this  
23 subsection:

24 (a) "Dwelling" has the meaning given that term in ORS 469.160.

25 (b) "Dwelling" does not include a residential treatment facility or a halfway house.

26 (c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-  
27 ity that provides rehabilitative care and treatment for sex offenders.

28 (d) "Sex offender" has the meaning given that term in ORS 181.594.

29 (4)(a) If the person is released on probation following conviction of a sex crime, as defined in  
30 ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years  
31 of age, the court, if requested by the victim, shall include as a special condition of the person's  
32 probation that the person not reside within three miles of the victim unless:

33 (A) The victim resides in a county having a population of less than 130,000 and the person is  
34 required to reside in that county;

35 (B) The person demonstrates to the court by a preponderance of the evidence that no mental  
36 intimidation or pressure was brought to bear during the commission of the crime;

37 (C) The person demonstrates to the court by a preponderance of the evidence that imposition  
38 of the condition will deprive the person of a residence that would be materially significant in aiding  
39 in the rehabilitation of the person or in the success of the probation; or

40 (D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means  
41 a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative  
42 care and treatment for sex offenders.

43 (b) A victim may request imposition of the special condition of probation described in this sub-  
44 section at the time of sentencing in person or through the prosecuting attorney.

45 (c) If the court imposes the special condition of probation described in this subsection and if at

1 any time during the period of probation the victim moves to within three miles of the probationer's  
2 residence, the court may not require the probationer to change the probationer's residence in order  
3 to comply with the special condition of probation.

4 (5) When a person who is a sex offender, as defined in ORS 181.594, is released on probation,  
5 the Department of Corrections or the county community corrections agency, whichever is appropri-  
6 ate, shall notify the chief of police, if the person is going to reside within a city, and the county  
7 sheriff of the county in which the person is going to reside of the person's release and the conditions  
8 of the person's release.

9 (6) Failure to abide by all general and special conditions imposed by the court and supervised  
10 by the Department of Corrections or a county community corrections agency may result in arrest,  
11 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-  
12 tions in accordance with rules adopted under ORS 137.595.

13 **(7) The court may order that probation be supervised by the court. If the court orders**  
14 **that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court.**  
15 **Fees collected under this subsection shall be deposited by the clerk of the court in the State**  
16 **Judicial Stabilization Fund.**

17 [(7)] (8) The court may at any time modify the conditions of probation.

18 [(8)] (9) A court may not order revocation of probation as a result of the probationer's failure  
19 to pay restitution unless the court determines from the totality of the circumstances that the pur-  
20 poses of the probation are not being served.

21 [(9)] (10) It is not a cause for revocation of probation that the probationer failed to apply for  
22 or accept employment at any workplace where there is a labor dispute in progress. As used in this  
23 subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

24 **(11) If the court determines that a defendant has violated the terms of probation, the**  
25 **court shall impose a \$50 assessment against the defendant. The assessment becomes part of**  
26 **the judgment and may be collected in the same manner as a fine.**

27 [(10)] (12) As used in this section, "attends," "institution of higher education," "works" and  
28 "carries on a vocation" have the meanings given those terms in ORS 181.594.

29 **SECTION 26a. The amendments to ORS 137.540 by section 26 of this 2009 Act apply only**  
30 **to orders of probation and probation violation determinations made on or after January 1,**  
31 **2010.**

32  
33 **STATE COURT AUTOMATION ASSESSMENT;**  
34 **STATE COURT TECHNOLOGY ACCOUNT**  
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36 **SECTION 27. (1) The State Court Technology Account is established, separate and dis-**  
37 **tinct from the General Fund. Interest earned by the State Court Technology Account shall**  
38 **be credited to the account. The account shall consist of amounts deposited in the account**  
39 **under:**

40 (a) Section 28 of this 2009 Act; and

41 (b) ORS 137.295 (5).

42 (2) All amounts in the State Court Technology Account are continuously appropriated to  
43 the Judicial Department for the purpose of paying expenses related to acquisition, develop-  
44 ment, support and maintenance of the Judicial Department's technology systems, equipment  
45 and services, including payment of debt service on certificates of participation issued for

1 **technology projects of the department.**

2 **(3) The department may accept gifts, grants or contributions from any source, whether**  
3 **public or private, for deposit in the State Court Technology Account.**

4 **SECTION 28. (1) In addition to any other fees and assessments provided by law, the clerk**  
5 **of the court shall collect a \$10 state court automation assessment at the time any fee is paid**  
6 **in a civil proceeding under ORS 21.110, 21.111, 21.114 or 21.310 or in an appeal or petition for**  
7 **review under ORS 21.010.**

8 **(2) Fees collected under this section shall be deposited by the clerk of the court in the**  
9 **State Court Technology Account.**

10 **SECTION 28a. Section 28 of this 2009 Act applies only to filings made on or after January**  
11 **1, 2010, in civil proceedings and appeals described in section 28 of this 2009 Act.**

12 **SECTION 29. In all cases of conviction for the commission of a crime or violation, ex-**  
13 **cluding parking violations, a circuit court shall impose upon the defendant a state court au-**  
14 **tomation assessment in addition to any other monetary obligation imposed. Except when a**  
15 **defendant successfully asserts the defense set forth in ORS 419C.522, the assessment shall**  
16 **also be imposed by the circuit court in juvenile cases under ORS chapter 419C. The assess-**  
17 **ment is a penal obligation in the nature of a fine.**

18 **SECTION 29a. Section 29 of this 2009 Act applies only to judgments of conviction entered**  
19 **on or after January 1, 2010.**

20 **SECTION 30. ORS 137.295 is amended to read:**

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

25 (2) There are *[four]* **five** categories of monetary obligations. The categories are as follows:

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

27 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS  
28 419C.450 and a monetary obligation imposed under ORS 811.706.

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

33 **(d) Category 4 consists of the state court automation assessment imposed under section**  
34 **29 of this 2009 Act.**

35 *[(d)]* **(e) Category [4] 5** consists of monetary obligations imposed upon the defendant as a result  
36 of the conviction, but which do not fall under category 1, category 2, *[or]* category 3 **or category**  
37 **4** of the obligation categories. These include, but are not limited to, fines and other monetary obli-  
38 gations that the law expressly directs be paid to an agency, person or political subdivision of the  
39 state, and any other obligation to reimburse for payment of a reward under ORS 131.897.  
40 Notwithstanding paragraph (c) of this subsection, the portion of assessments collected as required  
41 by ORS 137.290 (2)(c) and (d) shall be considered category *[4]* **5** obligations.

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

44 (4) After the total obligation has been credited under category 1, then as long as there remains  
45 unpaid any obligation under both categories 2 and 3, the clerk shall credit toward each such cate-

1 gory 50 percent of each payment received.

2 (5) The clerk shall monthly transfer the moneys credited under category 1 and under category  
 3 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-  
 4 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first  
 5 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the  
 6 moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer  
 7 moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have  
 8 been ordered paid to the account under category 2. When the moneys due the account have been  
 9 fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined  
 10 in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in  
 11 proportion to the amounts ordered. The clerk of a circuit court shall monthly transfer the moneys  
 12 credited under category 3 as directed by the State Court Administrator for deposit in the State  
 13 Treasury to the credit of the Criminal Fine and Assessment Account established under ORS 137.300.  
 14 The clerk of a justice or municipal court shall monthly transfer the moneys credited under category  
 15 3 to the Department of Revenue as provided in ORS 305.830. **The clerk of a circuit court shall**  
 16 **monthly transfer the moneys credited under category 4 as directed by the State Court Ad-**  
 17 **ministrator for deposit in the State Treasury to the credit of the State Court Technology**  
 18 **Account established under section 27 of this 2009 Act.**

19 (6) When the entire amount owing [*for purposes of either*] **under** category 2, [*or*] category 3 **or**  
 20 **category 4** has been credited, further payments by the defendant shall be credited by the clerk en-  
 21 tirely to the unpaid balance of whichever of those categories remains unpaid, until [*both*] category  
 22 2, [*and*] category 3 **and category 4** have been entirely paid.

23 (7) When category 1, category 2, [*and*] category 3 **and category 4** have been entirely paid and  
 24 any obligation remains owing under category [4] **5**, the clerk shall credit further payments by the  
 25 defendant to the obligations under category [4] **5** and shall monthly transfer the moneys so received  
 26 to the appropriate recipient, giving first priority to counties and cities entitled to revenues gener-  
 27 ated by prosecutions in justice and municipal courts and giving last priority to persons entitled to  
 28 moneys as reimbursement for reward under ORS 131.897. The clerk shall monthly transfer the por-  
 29 tion of assessments collected as required by ORS 137.290 (2)(c) and (d) to the county for adminis-  
 30 tration of substance abuse treatment programs described in ORS 430.420.

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

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

37 **SECTION 31.** ORS 131.897 is amended to read:

38 131.897. (1) In addition to any other sentence it may impose as a result of a criminal conviction,  
 39 the court may order that a defendant reimburse to a person, organization, association or public body  
 40 or officer, any sum or portion thereof offered and paid by the person, organization, association or  
 41 public body or officer under ORS 131.885 to 131.895, as a reward for information leading to the ap-  
 42 prehension of the defendant. Reimbursement under this section shall be ordered paid into the court,  
 43 for further transfer by the clerk to the person, organization, association or public body or officer  
 44 entitled to it. The monetary obligation described in this section is a category [4] **5** obligation under  
 45 ORS 137.295.

1 (2) In determining whether to order reimbursement under this section, the court shall take into  
2 account:

3 (a) The financial resources of the defendant and the burden that reimbursement will impose,  
4 with due regard to the other obligations of the defendant; and

5 (b) The ability of the defendant to make reimbursement on an installment basis or on other  
6 conditions to be fixed by the court.

7 **SECTION 32. The unit captions used in this 2009 Act are provided only for the conven-**  
8 **ience of the reader and do not become part of the statutory law of this state or express any**  
9 **legislative intent in the enactment of this 2009 Act.**

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