

**Enrolled**  
**House Bill 2287**

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

CHAPTER .....

AN ACT

Relating to courts; creating new provisions; amending ORS 1.202, 18.999, 21.010, 21.110, 36.170, 135.265, 137.540 and 153.125 and section 15, chapter 860, Oregon Laws 2007; appropriating money; declaring an emergency; and providing for revenue raising that requires approval by a three-fifths majority.

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

**JUDICIAL SYSTEM SURCHARGE ACCOUNT**

**SECTION 1.** (1) The Judicial System Surcharge Account is established in the General Fund of the State Treasury. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue according to allocations made by the Legislative Assembly. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Department of Revenue shall deposit in the General Fund all moneys remaining in the account after the distributions required by subsection (1) of this section have been made. Moneys deposited in the General Fund under this subsection are available for general governmental purposes.

**SECTION 1a.** (1) During the biennium commencing July 1, 2009, the Department of Revenue shall make monthly distributions from the Judicial System Surcharge Account. The department may not make a monthly distribution if the balance in the account is less than \$500,000 at the time the distribution would otherwise be made.

(2) Before a monthly distribution is made by the department under this section, the department shall distribute to itself the lesser of 0.05 percent of the balance in the Judicial System Surcharge Account or the amount necessary to pay the department's costs incurred in administering the account.

(3) As soon as possible after making the distribution required by subsection (2) of this section, the Department of Revenue shall make the following distributions from the Judicial System Surcharge Account:

(a) To the Judicial Department, 65 percent of the remaining balance in the account, to be used for court operations. Amounts distributed to the Judicial Department under this paragraph in the biennium commencing July 1, 2009, may not exceed \$6.5 million.

(b) To the Public Defense Services Commission, 35 percent of the remaining balance in the account, to be used for trial-level indigent defense. Amounts distributed to the Public

Defense Services Commission under this paragraph in the biennium commencing July 1, 2009, may not exceed \$3.5 million.

## OFFENSE SURCHARGE

**SECTION 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense surcharge under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$35 in the case of a felony.
- (b) \$35 in the case of a misdemeanor.
- (c) \$45 in the case of a violation as described in ORS 153.008.

(2) A court may waive all or part of the offense surcharge required by this section only if the court imposes no fine on the defendant.

(3) The offense surcharge required by this section shall be imposed only for offenses that are committed on or after October 1, 2009, and before July 1, 2011.

(4) Offense surcharges imposed under this section are part of the base fine for the purposes of ORS chapter 153.

(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Offense surcharges imposed in a justice court, county court or municipal court under this section are category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Amounts collected as offense surcharges under this section may not be deposited in the Criminal Fine and Assessment Account, or transferred to the Department of Revenue, under ORS 137.295 (5), but must be deposited or paid as follows:

(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Revenue in the Judicial System Surcharge Account.

(b) Offense surcharges imposed in a justice court or county court shall be paid to the county treasurer.

(c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

(6) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts imposed as offense surcharges under this section.

**SECTION 2a.** ORS 153.125 is amended to read:

153.125. (1) The base fine required in violation proceedings under this chapter is the sum of a foundation amount calculated under ORS 153.125 to 153.145 plus the unitary and county assessments established under ORS 137.290 and 137.309, **and the offense surcharge under section 2 of this 2009 Act**, for the violation. The amount of the county assessment under ORS 137.309 shall be calculated using the foundation amount determined under ORS 153.125 to 153.145, and may not be calculated using the maximum fine for the violation.

(2) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used in calculating the base fine required in violation proceedings under this chapter is 50 percent of the maximum fine established for the violation.

(3) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used for a specific fine violation in calculating the base fine required in a violation proceeding under this chapter is the maximum fine provided for the violation.

(4) If the law creating a violation establishes a minimum fine, and the foundation amount calculated for the violation under ORS 153.125 to 153.145 is less than the minimum fine for the vio-

lation, the foundation amount to be used in calculating the base fine required in a violation proceeding under this chapter is the minimum fine established for the violation.

**SECTION 2b. The amendments to ORS 153.125 by section 2a of this 2009 Act apply only to offenses that are committed on or after October 1, 2009, and before July 1, 2011.**

**SECTION 2c.** ORS 153.125, as amended by section 2a of this 2009 Act, is amended to read:

153.125. (1) The base fine required in violation proceedings under this chapter is the sum of a foundation amount calculated under ORS 153.125 to 153.145 plus the unitary and county assessments established under ORS 137.290 and 137.309[, *and the offense surcharge under section 2 of this 2009 Act,*] for the violation. The amount of the county assessment under ORS 137.309 shall be calculated using the foundation amount determined under ORS 153.125 to 153.145, and may not be calculated using the maximum fine for the violation.

(2) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used in calculating the base fine required in violation proceedings under this chapter is 50 percent of the maximum fine established for the violation.

(3) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used for a specific fine violation in calculating the base fine required in a violation proceeding under this chapter is the maximum fine provided for the violation.

(4) If the law creating a violation establishes a minimum fine, and the foundation amount calculated for the violation under ORS 153.125 to 153.145 is less than the minimum fine for the violation, the foundation amount to be used in calculating the base fine required in a violation proceeding under this chapter is the minimum fine established for the violation.

**SECTION 2d. (1) The amendments to ORS 153.125 by section 2c of this 2009 Act become operative July 1, 2011.**

**(2) The amendments to ORS 153.125 by section 2c of this 2009 Act do not affect the imposition of a surcharge under section 2 of this 2009 Act for an offense committed on or after October 1, 2009, and before July 1, 2011.**

#### **EXTENSION OF 2007 FILING FEE SURCHARGES TO SEPTEMBER 30, 2009**

**SECTION 3.** Section 15, chapter 860, Oregon Laws 2007, is amended to read:

**Sec. 15.** (1) In addition to the fees provided for in ORS 21.010 (1), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, at the time of filing a response in the Court of Appeals or the Supreme Court, the State Court Administrator shall collect a surcharge of \$8.

(2)(a) In addition to the fees provided for in ORS 21.110 (1), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party a surcharge of \$5. In addition, at the time of filing any appearance in any such action, suit or proceeding upon the part of any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties a surcharge of \$4.

(b) In addition to the fees provided for in ORS 21.110 (2), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the circuit court shall collect a surcharge of \$3 from the plaintiff, appellant or moving party, and shall collect a surcharge of \$3 from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, in the actions described in ORS 21.110 (2).

(3)(a) In addition to the fees provided for in ORS 21.111 (1), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, in the proceedings specified in ORS 21.111 (2) the clerk of the circuit court shall collect a surcharge of \$5 from the petitioner at the time the petition is filed, and shall collect a surcharge of \$3 from the respondent upon the respondent making an appearance.

(b) In addition to the fees provided for in ORS 21.111 (3), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the circuit court shall collect from the moving party a surcharge of \$3 at the time of the filing of a motion for the modification of a decree of marital annulment, dissolution or separation, if the motion is filed more than one year after the entry of the decree in the register of the court.

(4) In addition to the fees provided for ORS 21.114 (1), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the court shall collect:

(a) In an adoption proceeding, a surcharge of \$2 from the party filing the petition for adoption and a surcharge of \$1 from an objecting party appearing separately or objecting parties appearing jointly.

(b) In a change of name proceeding, a surcharge of \$2 from the party filing the application for change of name and a surcharge of \$1 from an objecting party appearing separately or objecting parties appearing jointly.

(5) In addition to the fee provided for in ORS 21.114 (3), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, in any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge of \$2.

(6)(a) In addition to the trial fee provided for in ORS 21.270 (2), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a surcharge on the trial fee of \$4 for each full or partial day of the trial.

(b) In addition to the jury trial fee provided for in ORS 21.270 (3), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee of \$10 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$6 for each full or partial day of the trial.

(7) In addition to the hearing fee provided for in ORS 21.275 (3), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the circuit court shall collect a surcharge on the hearing fee of \$2 if the hearing period is not more than three hours or \$4 if the hearing period is more than three hours.

(8)(a) In addition to the fees provided for in ORS 21.310 (1), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk of the court shall collect the following surcharges for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

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Where the amount of the estate is:

1. Not more than \$10,000--a surcharge of \$1.
2. More than \$10,000 and not more than \$25,000--a surcharge of \$4.
3. More than \$25,000 and not more than \$50,000--a surcharge of \$8.
4. More than \$50,000 and not more than \$100,000--a surcharge of \$12.
5. More than \$100,000 and not more than \$500,000--a surcharge of \$15.
6. More than \$500,000 and not more than \$1,000,000--a surcharge of \$19.
7. More than \$1,000,000--a surcharge of \$23.

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(b) In addition to the fee provided for in ORS 21.310 (3), for the period commencing September 1, 2007, and ending [June] **September 30, 2009**, the clerk shall collect a surcharge of \$1 for the filing of the initial papers in any guardianship proceeding.

(c) In addition to the fee provided for in ORS 21.310 (5), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, at the time of filing any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a surcharge of \$1 to the clerk.

(d) In addition to the fee provided for in ORS 21.310 (7), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$2.

(9) In addition to the fees provided for in ORS 21.325 (3), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the court shall collect a surcharge of \$2 for the filing of a copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or the filing of a copy of child custody determination of another state filed as provided in ORS 109.787.

(10) In addition to the fee provided for in ORS 34.340, for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the court shall collect a surcharge of \$1 upon the filing of a petition for a writ of habeas corpus.

(11) In addition to the fees provided for in ORS 36.520 (5), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the circuit court shall collect from the party making application for setting aside under ORS 36.520 (1) a surcharge of \$2 and from a party filing an appearance in opposition to the application a surcharge of \$1.

(12) In addition to the fee provided for in ORS 36.522 (3), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the circuit court shall collect a surcharge of \$1 for the filing of an arbitral award or application for enforcement of an arbitral award under ORS 36.522.

(13) In addition to the fee provided for in ORS 36.524 (1), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the circuit court shall collect a surcharge of \$1 for the filing under ORS 36.524 (1).

(14) In addition to the fee provided for in ORS 36.615 (1)(b), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the circuit court shall collect a surcharge of \$2 upon the filing of a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, and a surcharge of \$1 from a person filing an appearance in opposition to the petition.

(15) In addition to the fees provided for in ORS 46.570 (1), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, in the small claims department of a circuit court the clerk of the court shall collect:

(a) A \$1 surcharge when a plaintiff files a claim and the amount or value claimed does not exceed \$1,500;

(b) A \$2 surcharge when a plaintiff files a claim and the amount or value claimed exceeds \$1,500;

(c) A \$1 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff does not exceed \$1,500; and

(d) A \$2 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff exceeds \$1,500.

(16)(a) In addition to the fees provided for in ORS 105.130 (2), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the clerk of the court shall collect a surcharge of \$3.

(b) In addition to the fees provided for in ORS 105.130 (3), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, if the defendant demands a trial after a complaint is filed under ORS 105.130 (2), the plaintiff shall pay a surcharge of \$2.

(17) In addition to the fee provided for in ORS 107.434 (1), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the court shall collect a surcharge of

\$3 upon the filing of a motion seeking enforcement of a parenting time order or a substantial violation of a parenting plan.

(18) In addition to the fee provided for in ORS 112.820 (1)(d), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the probate court shall collect a surcharge of \$1 for filing of an affidavit under ORS 112.820 (1).

(19) In addition to the fee provided for in ORS 114.515 (6), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the probate court shall collect a surcharge of \$1 upon the filing of an affidavit under ORS 114.515.

(20) In addition to the fee provided for in ORS 130.200 (8)(a), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the circuit court shall collect a surcharge of \$3 for the filing of an agreement or memorandum of agreement under ORS 130.200 (6) and a surcharge of \$2 for the filing of objections under ORS 130.200 (7).

(21) In addition to the fee provided for in ORS 138.560, for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, a petitioner shall pay a surcharge of \$1 at the time of filing a petition under ORS 138.560.

(22) In addition to the fee provided for in ORS 166.274, for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the court shall collect a surcharge of \$5 for the filing of a petition for relief under ORS 166.274.

(23) In addition to the fee provided for in ORS 419B.555 (6), for the period commencing September 1, 2007, and ending [June] **September** 30, 2009, the clerk of the court shall collect a surcharge of \$4 for each application for emancipation under ORS 419B.555.

**(24) Except as provided in subsection (25) of this section, surcharges imposed under this section on or after July 1, 2009, and before October 1, 2009, shall be deposited in the Judicial System Surcharge Account. The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from surcharges imposed under this section on or after July 1, 2009, and before October 1, 2009.**

**(25) A surcharge imposed by a county court under subsection (8) of this section or by a justice court under subsection (16) of this section shall be paid to the county treasurer.**

#### **SURCHARGES OPERATIVE OCTOBER 1, 2009**

**SECTION 4. (1) In addition to the fees provided for in ORS 21.010 (1), for the period commencing October 1, 2009, and ending June 30, 2011, at the time of filing a response in the Court of Appeals or the Supreme Court, the State Court Administrator shall collect a surcharge of \$8.**

**(2)(a) In addition to the fees provided for in ORS 21.111 (1), for the period commencing October 1, 2009, and ending June 30, 2011, in the proceedings specified in ORS 21.111 (2) the clerk of the circuit court shall collect a surcharge of \$5 from the petitioner at the time the petition is filed, and shall collect a surcharge of \$3 from the respondent upon the respondent making an appearance.**

**(b) In addition to the fees provided for in ORS 21.111 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the moving party a surcharge of \$3 at the time of the filing of a motion for the modification of a decree of marital annulment, dissolution or separation, if the motion is filed more than one year after the entry of the decree in the register of the court.**

**(3) In addition to the fees provided for ORS 21.114 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect:**

**(a) In an adoption proceeding, a surcharge of \$2 from the party filing the petition for adoption and a surcharge of \$1 from an objecting party appearing separately or objecting parties appearing jointly.**

(b) In a change of name proceeding, a surcharge of \$61 from the party filing the application for change of name and a surcharge of \$61 from an objecting party appearing separately or objecting parties appearing jointly.

(4) In addition to the fee provided for in ORS 21.114 (3), for the period commencing October 1, 2009, and ending June 30, 2011, in any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge of \$2.

(5)(a) In addition to the trial fee provided for in ORS 21.270 (2), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a surcharge on the trial fee of \$33 for each full or partial day of the trial.

(b) In addition to the jury trial fee provided for in ORS 21.270 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee of \$32 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$40 for each full or partial day of the trial.

(6) In addition to the hearing fee provided for in ORS 21.275 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge on the hearing fee of \$12 if the hearing period is not more than three hours or \$33 if the hearing period is more than three hours.

(7)(a) In addition to the fees provided for in ORS 21.310 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect the following surcharges for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

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Where the amount of the estate is:

1. Not more than \$10,000--a surcharge of \$1.
2. More than \$10,000 and not more than \$25,000--a surcharge of \$4.
3. More than \$25,000 and not more than \$50,000--a surcharge of \$8.
4. More than \$50,000 and not more than \$100,000--a surcharge of \$12.
5. More than \$100,000 and not more than \$500,000--a surcharge of \$15.
6. More than \$500,000 and not more than \$1,000,000--a surcharge of \$19.
7. More than \$1,000,000--a surcharge of \$23.

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(b) In addition to the fee provided for in ORS 21.310 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect a surcharge of \$1 for the filing of the initial papers in any guardianship proceeding.

(c) In addition to the fee provided for in ORS 21.310 (5), for the period commencing October 1, 2009, and ending June 30, 2011, at the time of filing any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a surcharge of \$1 to the clerk.

(d) In addition to the fee provided for in ORS 21.310 (7), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$2.

(8) In addition to the fees provided for in ORS 21.325 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$2

for the filing of a copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or the filing of a copy of child custody determination of another state filed as provided in ORS 109.787.

(9) In addition to the fees provided for in ORS 21.325 (4), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$6 for issuing a writ of execution or a writ of garnishment.

(10) In addition to the fee provided for in ORS 34.340, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$1 upon the filing of a petition for a writ of habeas corpus.

(11) In addition to the fees provided for in ORS 36.520 (5), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the party making application for setting aside under ORS 36.520 (1) a surcharge of \$2 and from a party filing an appearance in opposition to the application a surcharge of \$1.

(12) In addition to the fee provided for in ORS 36.522 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$1 for the filing of an arbitral award or application for enforcement of an arbitral award under ORS 36.522.

(13) In addition to the fee provided for in ORS 36.524 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$1 for the filing under ORS 36.524 (1).

(14) In addition to the fee provided for in ORS 36.615 (1)(b), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$2 upon the filing of a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, and a surcharge of \$1 from a person filing an appearance in opposition to the petition.

(15) In addition to the fees provided for in ORS 46.570 (1), for the period commencing October 1, 2009, and ending June 30, 2011, in the small claims department of a circuit court the clerk of the court shall collect:

(a) A \$24 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff does not exceed \$1,500; and

(b) A \$50 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff exceeds \$1,500.

(16)(a) In addition to the fees provided for in ORS 105.130 (2), for the period commencing October 1, 2009, and ending June 30, 2011, upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the clerk of the court shall collect a surcharge of \$12.

(b) In addition to the fees provided for in ORS 105.130 (3), for the period commencing October 1, 2009, and ending June 30, 2011, if the defendant demands a trial after a complaint is filed under ORS 105.130 (2), the plaintiff shall pay a surcharge of \$2.

(17) In addition to the fee provided for in ORS 107.434 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$3 upon the filing of a motion seeking enforcement of a parenting time order or a substantial violation of a parenting plan.

(18) In addition to the fee provided for in ORS 112.820 (1)(d), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the probate court shall collect a surcharge of \$1 for filing of an affidavit under ORS 112.820 (1).

(19) In addition to the fee provided for in ORS 114.515 (6), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the probate court shall collect a surcharge of \$1 upon the filing of an affidavit under ORS 114.515.

(20) In addition to the fee provided for in ORS 130.200 (8)(a), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$3 for the filing of an agreement or memorandum of agreement under ORS 130.200 (6) and a surcharge of \$2 for the filing of objections under ORS 130.200 (7).



(21) In addition to the fee provided for in ORS 138.560, for the period commencing October 1, 2009, and ending June 30, 2011, a petitioner shall pay a surcharge of \$1 at the time of filing a petition under ORS 138.560.

(22) In addition to the fee provided for in ORS 166.274, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$5 for the filing of a petition for relief under ORS 166.274.

(23) In addition to the fees provided for in ORS 305.490, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the tax court shall collect the following surcharges:

(a) For a complaint or petition in the magistrate division, \$50.

(b) For a complaint or petition in the regular division, \$100.

(c) If a complaint or petition is specially designated under ORS 305.501 for hearing in the regular division, a fee of \$100.

(24) In addition to the fee provided for in ORS 419B.555 (6), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$4 for each application for emancipation under ORS 419B.555.

(25) Except as provided in subsection (26) of this section, surcharges imposed under this section shall be deposited in the Judicial System Surcharge Account. The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from surcharges imposed under this section.

(26) A surcharge imposed by a county court under subsection (7) of this section or by a justice court under subsection (16) of this section shall be paid to the county treasurer.

**SECTION 5.** ORS 18.999 is amended to read:

18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes procedures for that recovery. The following apply to this section:

(1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff may proceed as follows:

(a) Before crediting the total amount of moneys received against the judgment or debt, the plaintiff may recover and keep from the total amount received under the garnishment, attachment or payment any moneys allowed to be recovered under this section.

(b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall credit the remainder of the moneys received against the judgment or debt as provided by law.

(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid on and to be credited against the original judgment or debt sought to be enforced. No additional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

(3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific judgment or debt that the specific garnishment or attachment was issued to enforce or upon which the payment was received. Moneys recoverable under subsection (1)(a) of this section remain recoverable and, except as provided under subsection (8) of this section, may be recovered from moneys received by the plaintiff under subsequent garnishments, attachments or payments on the same specific judgment or debt.

(4) This section allows the recovery only of the following:

(a) Statutorily established moneys that meet the requirements under subsection (3) of this section, as follows:

(A) Garnishee's search fees under ORS 18.790.

(B) Fees for delivery of writs of garnishment under ORS 18.652.

(C) Circuit court fees as provided under ORS 21.325.

(D) County court fees as provided under ORS 5.125.

(E) County clerk recording fees as provided in ORS 205.320.

(F) Actual fees or disbursements made under ORS 21.410.

(G) Costs of execution as provided in ORS 105.112.

(H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [§12] **\$18** for each garnishment.

(I) Costs of an execution sale as described in ORS 18.950 (2).

(J) Fees paid under ORS 21.125 for motions and responses to motions filed after entry of a judgment.

(b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and ending upon recovery of the amount under this section.

(5) The plaintiff shall be responsible for doing all of the following:

(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section and making the accounting available for any proceeding relating to that judgment or debt.

(b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under subsection (1)(a) of this section.

(6) Moneys recovered under subsection (1)(a) of this section remain subject to all other provisions of law relating to payments, or garnished or attached moneys including, but not limited to, those relating to exemption, claim of exemption, overpayment and holding periods.

(7) Nothing in this section limits the right of a plaintiff to recover moneys described in this section or other moneys in any manner otherwise allowed by law.

(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recoverable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced to a judgment or to a debt enforceable under ORS 18.854.

**SECTION 6. The amendments to ORS 18.999 by section 5 of this 2009 Act become operative October 1, 2009, and apply only to writs of garnishment issued on or after October 1, 2009, and before July 1, 2011.**

**SECTION 7.** ORS 18.999, as amended by section 5 of this 2009 Act, is amended to read:

18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes procedures for that recovery. The following apply to this section:

(1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff may proceed as follows:

(a) Before crediting the total amount of moneys received against the judgment or debt, the plaintiff may recover and keep from the total amount received under the garnishment, attachment or payment any moneys allowed to be recovered under this section.

(b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall credit the remainder of the moneys received against the judgment or debt as provided by law.

(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid on and to be credited against the original judgment or debt sought to be enforced. No additional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

(3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific judgment or debt that the specific garnishment or attachment was issued to enforce or upon which the payment was received. Moneys recoverable under subsection (1)(a) of this section remain recoverable and, except as provided under subsection (8) of this section, may be recovered from moneys received by the plaintiff under subsequent garnishments, attachments or payments on the same specific judgment or debt.

(4) This section allows the recovery only of the following:

(a) Statutorily established moneys that meet the requirements under subsection (3) of this section, as follows:

(A) Garnishee's search fees under ORS 18.790.

(B) Fees for delivery of writs of garnishment under ORS 18.652.

(C) Circuit court fees as provided under ORS 21.325.

- (D) County court fees as provided under ORS 5.125.
- (E) County clerk recording fees as provided in ORS 205.320.
- (F) Actual fees or disbursements made under ORS 21.410.
- (G) Costs of execution as provided in ORS 105.112.
- (H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [§18] **\$12** for each garnishment.
- (I) Costs of an execution sale as described in ORS 18.950 (2).
- (J) Fees paid under ORS 21.125 for motions and responses to motions filed after entry of a judgment.
- (b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and ending upon recovery of the amount under this section.
- (5) The plaintiff shall be responsible for doing all of the following:
  - (a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section and making the accounting available for any proceeding relating to that judgment or debt.
  - (b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under subsection (1)(a) of this section.
  - (6) Moneys recovered under subsection (1)(a) of this section remain subject to all other provisions of law relating to payments, or garnished or attached moneys including, but not limited to, those relating to exemption, claim of exemption, overpayment and holding periods.
  - (7) Nothing in this section limits the right of a plaintiff to recover moneys described in this section or other moneys in any manner otherwise allowed by law.
  - (8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recoverable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced to a judgment or to a debt enforceable under ORS 18.854.

**SECTION 8. (1) The amendments to ORS 18.999 by section 7 of this 2009 Act become operative July 1, 2011.**

**(2) The amendments to ORS 18.999 by section 7 of this 2009 Act do not affect the amount that may be recovered under ORS 18.999, as in effect immediately before July 1, 2011, for writs of garnishment issued on or after October 1, 2009, and before July 1, 2011.**

### **SECURITY RELEASE DEPOSITS**

**SECTION 9.** ORS 135.265 is amended to read:

135.265. (1) If the defendant is not released on personal recognizance under ORS 135.255, or granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional release, the magistrate shall set a security amount that will reasonably assure the defendant's appearance. The defendant shall execute the security release in the amount set by the magistrate.

(2) The defendant shall execute a release agreement and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10 percent of the security amount, but in no event shall such deposit be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon depositing this sum the defendant shall be released from custody subject to the condition that the defendant appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court. Once security has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original security in that court subject to ORS 135.280 and 135.285. When conditions of the release agreement have been performed and the defendant has been discharged from all obligations in the cause, the clerk of the court shall return to the person shown by the receipt to have made the deposit, unless the court orders otherwise, 85 percent of the sum which has been deposited and shall retain as security release costs 15 percent, but not less than \$5 [*nor more than \$200*], of the amount deposited. The interest that has accrued on the full amount deposited shall also be retained by the clerk. The amount retained by the clerk

of a circuit court shall be paid over as directed by the State Court Administrator for deposit in the Criminal Fine and Assessment Account created under ORS 137.300. The amount retained by a justice of the peace shall be deposited in the county treasury. The amount retained by the clerk of a municipal court shall be deposited in the municipal corporation treasury. At the request of the defendant the court may order whatever amount is repayable to defendant from such security amount to be paid to defendant's attorney of record.

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

**SECTION 10.** (1) **The amendments to ORS 135.265 by section 9 of this 2009 Act apply only to security deposits made on or after October 1, 2009, and before July 1, 2011.**

(2) **All amounts retained in a circuit court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before July 1, 2011, that are in excess of \$200 shall be deposited in the Judicial System Surcharge Account. All amounts retained in a justice court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before July 1, 2011, that are in excess of \$200 shall be paid to the county treasurer. All amounts retained in a municipal court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before July 1, 2011, that are in excess of \$200 shall be paid to the city treasurer.**

(3) **The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts retained as security deposit costs that are in excess of \$200 pursuant to the amendments to ORS 135.265 by section 9 of this 2009 Act.**

**SECTION 11.** ORS 135.265, as amended by section 9 of this 2009 Act, is amended to read:

135.265. (1) If the defendant is not released on personal recognizance under ORS 135.255, or granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional release, the magistrate shall set a security amount that will reasonably assure the defendant's appearance. The defendant shall execute the security release in the amount set by the magistrate.

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

(3) Instead of the security deposit provided for in subsection (2) of this section the defendant may deposit with the clerk of the court an amount equal to the security amount in cash, stocks,

bonds, or real or personal property situated in this state with equity not exempt owned by the defendant or sureties worth double the amount of security set by the magistrate. The stocks, bonds, real or personal property shall in all cases be justified by affidavit. The magistrate may further examine the sufficiency of the security as the magistrate considers necessary.

**SECTION 12.** (1) **The amendments to ORS 135.265 by section 11 of this 2009 Act become operative July 1, 2011.**

(2) **The amendments to ORS 135.265 by section 11 of this 2009 Act do not affect the amount of security release costs that may be deducted from security amounts deposited on or after October 1, 2009, and before July 1, 2011.**

### **THIRD-PARTY COMPLAINT FEE**

**SECTION 13.** (1) **When a person files a third-party complaint in a civil action, suit or proceeding in circuit court, the clerk of the court shall collect from the third-party plaintiff the same fees, charges and surcharges that would be required of a plaintiff filing the same complaint in an original action.**

(2) **When a third-party defendant files an appearance in a civil action, suit or proceeding in circuit court, the clerk of the court shall collect the same fees, charges and surcharges that would be required of a defendant filing the same appearance in an original action.**

(3) **This section applies only to third-party complaints and appearances filed on or after October 1, 2009, and before July 1, 2011.**

(4) **All amounts imposed as fees under this section shall be deposited in the Judicial System Surcharge Account.**

(5) **The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts imposed under this section.**

### **FILING FEES**

**SECTION 14.** ORS 21.110 is amended to read:

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

(b) **Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 for each additional party named in the pleading. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 for each additional party named in the pleading.**

(2) In the following actions, the clerk of the circuit court shall collect the sum of [~~\$68~~] **\$78** as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of [~~\$68~~] **\$78** as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

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

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

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

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

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

**(3) In any action for the recovery of money or damages, the clerk of the circuit court shall collect the following sums from the plaintiff at the time the action is filed, and shall collect the following sums from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:**

**(a) If the amount claimed is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225.**

**(b) If the amount claimed is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275.**

**(c) If the amount claimed is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325.**

**(d) If the amount claimed is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375.**

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

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

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

[(6)] (7) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) or (3) of this section must include in the caption of the pleading [*the following words: "Claim of not more than \$10,000."*] **a statement of the amount claimed.**

[(7)] (8) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

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

(c) Filiation proceedings under ORS 109.124 to 109.230;

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

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

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

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

[(8)] (9) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

**SECTION 15.** (1) The amendments to ORS 21.110 by section 14 of this 2009 Act apply only to civil actions, suits and proceedings filed on or after October 1, 2009, and before July 1, 2011.

(2) All fees imposed pursuant to the amendments to ORS 21.110 by section 14 of this 2009 Act shall be deposited in the Judicial System Surcharge Account.

(3) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed pursuant to the amendments to ORS 21.110 by section 14 of this 2009 Act.

**SECTION 16.** ORS 21.110, as amended by section 14 of this 2009 Act, is amended to read:

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

[~~(b) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 for each additional party named in the pleading. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 for each additional party named in the pleading.~~]

(2) In the following actions, the clerk of the circuit court shall collect the sum of [~~\$78~~] **\$68** as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of [~~\$78~~] **\$68** as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

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

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

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

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

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

[~~(3) In any action for the recovery of money or damages, the clerk of the circuit court shall collect the following sums from the plaintiff at the time the action is filed, and shall collect the following sums from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:]~~

[~~(a) If the amount claimed is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225.~~]

[~~(b) If the amount claimed is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275.~~]

[~~(c) If the amount claimed is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325.~~]

[~~(d) If the amount claimed is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375.~~]

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

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

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

[(7)] (6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) [or (3)] of this section must include in the caption of the pleading [*a statement of the amount claimed*] **the following words: "Claim of not more than \$10,000."**

[(8)] (7) The fees imposed by this section do not apply to:

- (a) Protective proceedings under ORS chapter 125;
- (b) Proceedings for dissolution of marriage, annulment of marriage or separation;
- (c) Filiation proceedings under ORS 109.124 to 109.230;
- (d) Proceedings to determine custody or support of a child under ORS 109.103;
- (e) Probate, adoption or change of name proceedings;
- (f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or
- (g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

[(9)] (8) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

**SECTION 17. The amendments to ORS 21.110 by section 16 of this 2009 Act become operative July 1, 2011.**

**SECTION 18.** ORS 36.170, as amended by section 26, chapter 860, Oregon Laws 2007, is amended to read:

36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

- (a) \$6, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 (1) **or (3)**, 21.310 or any other filing fee not specifically provided for in this section.
- (b) \$5, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 (2) or 105.130, or if the action is filed in the small claims department of circuit court and the amount or value claimed exceeds \$1,500.
- (c) \$3, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.
- (d) \$2, if the action is filed in the small claims department of circuit court and the amount or value claimed does not exceed \$1,500.

(2) All surcharges collected under this section shall be deposited by the State Court Administrator into the State Treasury to the credit of the General Fund.

**SECTION 19.** ORS 36.170, as amended by section 26, chapter 860, Oregon Laws 2007, and section 18 of this 2009 Act, is amended to read:

36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected



from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

(a) \$6, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 (1) [or (3)], 21.310 or any other filing fee not specifically provided for in this section.

(b) \$5, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 (2) or 105.130, or if the action is filed in the small claims department of circuit court and the amount or value claimed exceeds \$1,500.

(c) \$3, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$2, if the action is filed in the small claims department of circuit court and the amount or value claimed does not exceed \$1,500.

(2) All surcharges collected under this section shall be deposited by the State Court Administrator into the State Treasury to the credit of the General Fund.

**SECTION 20. (1) The amendments to ORS 36.170 by section 18 of this 2009 Act become operative October 1, 2009.**

**(2) The amendments to ORS 36.170 by section 19 of this 2009 Act become operative July 1, 2011.**

### **BENCH PROBATION FEES AND PROBATION VIOLATION ASSESSMENTS**

**SECTION 21.** ORS 137.540 is amended to read:

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

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

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

(c) Submit to testing of breath or urine for controlled substance or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) When supervision begins;

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

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

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

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

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the probationer for the protection of the public or reformation of the probationer, or both, including, but not limited to, that the probationer shall:

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

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

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

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

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

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

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

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

(4)(a) If the person is released on probation following conviction of a sex crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years

of age, the court, if requested by the victim, shall include as a special condition of the person's probation that the person not reside within three miles of the victim unless:

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

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

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

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

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

(c) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to within three miles of the probationer's residence, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.

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

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

**(7) The court may order that probation be supervised by the court. If the court orders that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Fees imposed in a justice court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court under this subsection shall be paid to the city treasurer.**

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

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

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

**(11) If the court determines that a defendant has violated the terms of probation, the court shall impose a \$25 assessment against the defendant. The assessment becomes part of the judgment and may be collected in the same manner as a fine. Assessments imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Assessments imposed in a justice court under this subsection shall be paid to the county treasurer. Assessments imposed in a municipal court under this subsection shall be paid to the city treasurer.**

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

**SECTION 22. (1) The amendments to ORS 137.540 by section 21 of this 2009 Act apply only to orders of probation and probation violation determinations made on or after October 1, 2009, and before July 1, 2011.**

**(2) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from assessments imposed by a court under the amendments to ORS 137.540 by section 21 of this 2009 Act.**

**SECTION 23.** ORS 137.540, as amended by section 21 of this 2009 Act, is amended to read:

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

- (a) Pay supervision fees, fines, restitution or other fees ordered by the court.
- (b) Not use or possess controlled substances except pursuant to a medical prescription.
- (c) Submit to testing of breath or urine for controlled substance or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.
- (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
- (e) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
- (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.
- (g) Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.
- (h) Permit the parole and probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.
- (i) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
- (j) Obey all laws, municipal, county, state and federal.
- (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
- (L) Not possess weapons, firearms or dangerous animals.
- (m) If recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer if the probationer:
  - (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;
  - (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or
  - (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex offense under ORS 163.305 to 163.467 if committed in this state.
- (n) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.
- (o) Report as required and abide by the direction of the supervising officer.
- (p) If required to report as a sex offender under ORS 181.596, report with the Department of State Police, a chief of police, a county sheriff or the supervising agency:
  - (A) When supervision begins;
  - (B) Within 10 days of a change in residence;
  - (C) Once each year within 10 days of the probationer's date of birth;
  - (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
  - (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the probationer for the protection of the public or reformation of the probationer, or both, including, but not limited to, that the probationer shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to within three miles of the probationer's residence, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.

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

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

*[(7) The court may order that probation be supervised by the court. If the court orders that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Fees imposed in a justice court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court under this subsection shall be paid to the city treasurer.]*

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

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

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

*[(11) If the court determines that a defendant has violated the terms of probation, the court shall impose a \$25 assessment against the defendant. The assessment becomes part of the judgment and may be collected in the same manner as a fine. Assessments imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Assessments imposed in a justice court under this subsection shall be paid to the county treasurer. Assessments imposed in a municipal court under this subsection shall be paid to the city treasurer.]*

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

**SECTION 24. (1) The amendments to ORS 137.540 by section 23 of this 2009 Act become operative July 1, 2011.**

**(2) The amendments to ORS 137.540 by section 23 of this 2009 Act do not affect any fee or assessment that was added to a judgment under ORS 137.540 before July 1, 2011.**

#### **PROBATE ACCOUNTING FEES**

**SECTION 25. (1) In a court with probate jurisdiction, the clerk shall charge and collect the following fees for an annual or final accounting filed in a probate proceeding or a conservatorship proceeding on or after October 1, 2009, and before July 1, 2011:**

**(a) If the amount of the estate is not more than \$500,000, a fee of \$100.**

**(b) If the amount of the estate is more than \$500,000 and not more than \$1 million, a fee of \$200.**

**(c) If the amount of the estate is more than \$1 million, a fee of \$300.**

**(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.**

**(3) All fees imposed under this section in a circuit court shall be deposited in the Judicial System Surcharge Account. All fees imposed by a county court under this section shall be paid to the county treasurer.**

**(4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.**

## DIVERSION PROGRAM ADMINISTRATION FEE

**SECTION 26.** (1) In addition to the fees provided in ORS 135.921 and 813.240, upon the filing of a petition for diversion under ORS 135.909 or 813.210, the court shall order the defendant to pay \$100 to the court as a program administration fee.

(2) This section applies only to petitions for diversion filed on or after October 1, 2009, and before July 1, 2011.

(3) Fees imposed under this section in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Fees imposed in a justice court under this section shall be paid to the county treasurer. Fees imposed in a municipal court under this section shall be paid to the city treasurer.

(4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

## EXPUNCTION FEE

**SECTION 27.** (1) In addition to the fee provided in ORS 137.225, upon the filing of an application under ORS 137.225 (1), the court shall order the defendant to pay a fee of \$250 to the court.

(2) This section applies only to applications filed under ORS 137.225 (1) on or after October 1, 2009, and before July 1, 2011.

(3) Fees imposed under this section in the circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account. Fees imposed in a justice court under this section shall be paid to the county treasurer. Fees imposed in a municipal court under this section shall be paid to the city treasurer.

(4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts imposed under this section.

## ADDITIONAL PARTY FEES IN APPELLATE CASES

**SECTION 28.** ORS 21.010 is amended to read:

21.010. (1) Except as provided in [subsection (2) 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. 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. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Except as provided in 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 \$154 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 \$154 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.

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

[3] (4) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense

designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

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

**SECTION 29. (1) The amendments to ORS 21.010 by section 28 of this 2009 Act apply only to filings and appearances made on or after October 1, 2009, and before July 1, 2011.**

**(2) All fees imposed under the amendments to ORS 21.010 by section 28 of this 2009 Act shall be deposited in the Judicial System Surcharge Account.**

**(3) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under the amendments to ORS 21.010 by section 28 of this 2009 Act.**

**SECTION 30.** ORS 21.010, as amended by section 28 of this 2009 Act, is amended to read:

21.010. (1) Except as provided in 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. 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. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

*[(2) Except as provided in 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 \$154 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 \$154 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.]*

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

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

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

**SECTION 31. The amendments to ORS 21.010 by section 30 of this 2009 Act become operative July 1, 2011.**

#### SETTLEMENT CONFERENCE FEE

**SECTION 32. (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114 or 21.310 in which the parties request a settlement conference before a judge, or in which a settlement conference before a judge is required by law or by the court, each party participating in the conference shall pay a \$50 fee to the court before the conference is conducted.**

**(2) Notwithstanding ORS 3.428 (3), the fee required under subsection (1) of this section must be paid when parties request a settlement conference through a family law facilitation program.**

**(3) The fee imposed under this section applies only to settlement conferences conducted on or after October 1, 2009, and before July 1, 2011.**

**(4) All fees imposed under this section shall be deposited in the Judicial System Surcharge Account.**



(5) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

#### APPELLATE CONTINUANCE FEE

**SECTION 33.** (1) In any proceeding in the Court of Appeals or Supreme Court, the clerk of the court shall collect a fee of \$50 from any party filing a motion for continuance or a motion for an extension of time for the filing of a brief or other document in the proceeding.

(2) The fee imposed under this section applies only to motions filed on or after October 1, 2009, and before July 1, 2011.

(3) All fees imposed under this section shall be deposited in the Judicial System Surcharge Account.

(4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

#### COLLECTION ACCOUNT FEES

**SECTION 34.** ORS 1.202 is amended to read:

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

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions of the judicial branch of state government, that use the Department of Revenue or private collection agencies shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. The fee shall be added to cover the costs of collection charged by the Department of Revenue or private collection agency and shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collection charged by the Department of Revenue or private collection agency. Fees under this subsection shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

(3) A court may not waive or suspend the fees required to be added to judgments under the provisions of this section.

**SECTION 35.** (1) The amendments to ORS 1.202 by section 34 of this 2009 Act apply only to judgments entered on or after October 1, 2009, and before July 1, 2011.

(2) Notwithstanding ORS 1.202 (1), all fees imposed under ORS 1.202 (1) after October 1, 2009, and before July 1, 2011, that are in excess of \$100 shall be deposited in the Judicial System Surcharge Account.

(3) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under ORS 1.202 (1) that are in excess of \$100 pursuant to the amendments to ORS 1.202 by section 34 of this 2009 Act.

**SECTION 36.** ORS 1.202, as amended by section 34 of this 2009 Act, is amended to read:

1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions of the judicial branch of state government, shall add a fee of not less than \$50 and not more than [~~\$200~~] **\$100** to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor

or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions of the judicial branch of state government, that use the Department of Revenue or private collection agencies shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. The fee shall be added to cover the costs of collection charged by the Department of Revenue or private collection agency and shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collection charged by the Department of Revenue or private collection agency. Fees under this subsection shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

(3) A court may not waive or suspend the fees required to be added to judgments under the provisions of this section.

**SECTION 37.** (1) The amendments to ORS 1.202 by section 36 of this 2009 Act become operative on July 1, 2011.

(2) The amendments to ORS 1.202 by section 36 of this 2009 Act do not affect any fee imposed before July 1, 2011, and all amounts added to judgments under the amendments to ORS 1.202 by section 36 of this 2009 Act that are collected on or after July 1, 2011, shall continue to be deposited in the Judicial System Surcharge Account.

#### **EX PARTE ORDER OR JUDGMENT FEE**

**SECTION 38.** (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114 or 21.310, the clerk of a circuit court shall collect the sum of \$10 for filing or submission of an ex parte order or judgment for the purpose of signature by the judge and entry.

(2) The fee established under this section may not be collected for filings or submissions in small claims actions.

(3) The fee imposed under this section applies only to ex parte orders or judgments filed or submitted on or after October 1, 2009, and before July 1, 2011.

(4) All fees imposed under this section shall be deposited in the Judicial System Surcharge Account.

(5) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

#### **INTERIM COMMITTEE ON STATE JUSTICE SYSTEM REVENUES**

**SECTION 39.** (1) There is created the Interim Committee on State Justice System Revenues, consisting of three members of the Senate appointed by the President of the Senate and three members of the House of Representatives appointed by the Speaker of the House of Representatives. The Chief Justice of the Supreme Court and the Oregon State Bar shall designate nonvoting liaisons to the interim committee.

(2) The interim committee shall conduct a review of all existing Judicial Department fees, fines and surcharges. The review shall identify:

(a) How the current revenue structure was developed, including when fees, fines and surcharges were imposed and adjusted;

(b) Any deficiencies in the current revenue structure;

(c) All revenues generated under the current revenue structure, including revenues from fees and charges established by order of the Chief Justice;

(d) The distribution processes for all revenues generated under the existing revenue structure;

(e) How revenues generated from fees and surcharges affect low-income individuals;  
(f) The feasibility of implementing a program to accelerate and enhance collections of fines and assessments; and

(g) The feasibility of collecting a portion of outstanding debts through renegotiation of fines and assessments, or use of community service, in connection with programs such as Project Clean Slate.

(3) The interim committee shall develop recommendations, including draft legislation, on improvements to the existing revenue structure. The recommendations should be based on the following principles:

(a) Simplification of the revenue collection and distribution process, minimization of administrative and public costs, and transparency in the revenue collection process;

(b) Preservation of, or improvement to, state judicial system access;

(c) Ensuring legislative oversight of all state judicial system revenue collections, distribution and use; and

(d) Where practical, aligning justice system access and costs with the revenues collected.

(4) The interim committee shall receive periodic reports from the Judicial Department on all revenue collected by the department, including revenues from the temporary surcharges and fees imposed under this 2009 Act and revenues from fees and charges established by order of the Chief Justice, and prepare reports to the Legislative Assembly on the revenue forecast for those surcharges, fees and charges. If a special session is held during 2010, a report shall be made to the Seventy-fifth Legislative Assembly within five days after the special session is convened. In addition, a final report by the committee shall be made to the Seventy-sixth Legislative Assembly in the manner provided in ORS 192.245.

(5) The interim committee shall receive periodic reports from the Judicial Department and other justice system entities. The reports shall address the status of the justice system, including caseloads, the costs of resentencing defendants and other factors affecting the operating needs of the justice system during the 2009-2011 biennium.

(6) The interim committee shall recommend distribution to justice system entities of surcharge and fee revenues generated under this 2009 Act.

(7) A majority of the members of the interim committee constitutes a quorum for the transaction of business.

(8) Official action by the interim committee requires the approval of a majority of the members of the interim committee.

(9) The President of the Senate shall designate one of the members appointed by the President to serve as co-chair of the interim committee. The Speaker of the House of Representatives shall designate one of the members appointed by the Speaker to serve as co-chair of the interim committee.

(10) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(11) The interim committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the interim committee.

(12) The interim committee may adopt rules necessary for the operation of the interim committee.

(13) The Legislative Fiscal Office, the Legislative Administrator and the Judicial Department shall provide administrative support to the interim committee.

(14) All agencies of state government, as defined in ORS 174.111, are directed to assist the interim committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the interim committee consider necessary to perform their duties.

**SECTION 40.** Section 39 of this 2009 Act is repealed on the date of the convening of the next regular biennial legislative session.

**CAPTIONS**

**SECTION 41.** The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

**EMERGENCY CLAUSE**

**SECTION 42.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

**Passed by House June 26, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 29, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

.....  
Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State