

## HOUSE AMENDMENTS TO HOUSE BILL 2413

By COMMITTEE ON HUMAN SERVICES

April 30

1 On page 1 of the printed bill, line 3, after the semicolon insert “appropriating money;”.

2 Delete lines 6 through 30 and delete pages 2 through 7 and insert:

3 **“SECTION 1. As used in sections 1 to 7 of this 2009 Act:**

4 **“(1) ‘Contractor’ means a nonprofit organization with which the Department of Human**  
5 **Services contracts to provide experience and expertise in traumatic brain injuries.**

6 **“(2)(a) ‘Traumatic brain injury’ means injury to the brain caused by physical trauma re-**  
7 **sulting from, but not limited to, incidents involving collisions, falls or physical assaults that**  
8 **is of sufficient severity to result in impairment in one or more of the following areas:**

9 **“(A) Cognition.**

10 **“(B) Language memory.**

11 **“(C) Attention.**

12 **“(D) Reasoning.**

13 **“(E) Abstract thinking.**

14 **“(F) Judgment.**

15 **“(G) Problem solving.**

16 **“(H) Sensory, perceptual and motor abilities.**

17 **“(I) Psychosocial behavior.**

18 **“(J) Physical functions.**

19 **“(K) Information processing.**

20 **“(b) ‘Traumatic brain injury’ does not include a brain injury that is congenital, degener-**  
21 **ative or induced by birth trauma.**

22 **“SECTION 2. (1) The Oregon traumatic brain injury strategic partnership advisory**  
23 **council is established as an advisory council to the Governor and the Department of Human**  
24 **Services regarding services for individuals with traumatic brain injuries.**

25 **“(2) The council is composed of the following members:**

26 **“(a) The Director of Human Services, or the director’s designee, and four representatives**  
27 **from the department, appointed by the director, each with expertise in one of the following**  
28 **areas:**

29 **“(A) Children’s services;**

30 **“(B) Mental health;**

31 **“(C) Public health; and**

32 **“(D) Vocational rehabilitation;**

33 **“(b) The Director of Veterans’ Affairs or the director’s designee;**

34 **“(c) The Director of the Department of Corrections or the director’s designee;**

35 **“(d) The Director of the Economic and Community Development Department or the di-**

1 rector's designee;

2 "(e) The Adjutant General or the Adjutant General's designee;

3 "(f) The executive director of the organization designated to administer the state pro-

4 tection and advocacy system described in ORS 192.517; and

5 "(g) The following members appointed by the Governor:

6 "(A) The executive director of a state brain injury association;

7 "(B) A representative from an organization serving veterans;

8 "(C) A representative of a federally recognized tribe located in Oregon;

9 "(D) A neurologist who has experience working with individuals with traumatic brain

10 injuries;

11 "(E) A neuropsychologist who has experience working with individuals with traumatic

12 brain injuries;

13 "(F) A social worker or clinical psychologist who has experience working with individuals

14 with traumatic brain injuries;

15 "(G) A rehabilitation specialist, such as a speech pathologist, vocational rehabilitation

16 counselor, occupational therapist or physical therapist, who has experience working with

17 individuals with traumatic brain injuries;

18 "(H) An individual with a traumatic brain injury;

19 "(I) A family member of an individual with a traumatic brain injury; and

20 "(J) A member of the public who has experience with issues related to the causes of

21 traumatic brain injuries.

22 "(3) A member of the council is not entitled to compensation, but may be reimbursed

23 from funds available to the council for actual and necessary travel and other expenses in-

24 curred by the member in the performance of the member's official duties in the manner and

25 amount provided in ORS 292.495.

26 "(4) The council members appointed by the Governor under subsection (2)(g) of this sec-

27 tion shall serve for terms of three years and may not serve more than two consecutive

28 terms.

29 "(5) The members of the council shall, to the extent practicable, be appointed to repre-

30 sent both rural and urban areas of the state.

31 "(6) The council shall elect by majority vote one of its members to serve as chairperson

32 for a two-year term. The chairperson shall act as the presiding officer of the council.

33 "SECTION 3. On or before July 30, 2010, the Governor shall make the initial appoint-

34 ments to the Oregon traumatic brain injury strategic partnership advisory council under

35 section 2 (2)(g) of this 2009 Act. Notwithstanding section 2 (4) of this 2009 Act, the terms of

36 the members initially appointed by the Governor shall be staggered to end as follows:

37 "(1) Three members on June 30, 2011.

38 "(2) Three members on June 30, 2012.

39 "(3) Four members on June 30, 2013.

40 "SECTION 4. (1) The duties of the Oregon traumatic brain injury strategic partnership

41 advisory council include:

42 "(a) By December 1, 2010, submitting to the Legislative Assembly and the Governor:

43 "(A) A preliminary report, created in collaboration with the contractor, containing a

44 comprehensive statewide plan to address the needs of individuals with traumatic brain inju-

45 ries, including the use of public-private partnerships;

1       “(B) A report on the development of a statewide registry to collect data regarding indi-  
2       viduals with traumatic brain injuries; and

3       “(C) A report on the efforts of the contractor to provide services for individuals with  
4       traumatic brain injuries.

5       “(b) By December 1, 2011, submitting a final report, created in collaboration with the  
6       contractor, containing a comprehensive statewide plan to address the needs of individuals  
7       with traumatic brain injuries.

8       “(2) In developing the comprehensive statewide plan required by this section, the council  
9       and the contractor shall consider:

10      “(a) Increasing provider capacity and provider training;

11      “(b) Improving the coordination of services;

12      “(c) Establishing agreements with private sector agencies to develop services for indi-  
13      viduals with traumatic brain injuries; and

14      “(d) Recommending other actions the council deems appropriate.

15      “SECTION 5. (1) The Department of Human Services shall designate staff who shall:

16      “(a) Collaborate on policies, programs and services for individuals with traumatic brain  
17      injuries; and

18      “(b) Provide staff support to the Oregon traumatic brain injury strategic partnership  
19      advisory council established under section 2 of this 2009 Act.

20      “(2) The department shall provide data and information that is requested by the council  
21      and is in the possession or control of the department.

22      “(3) The staff described in subsection (1) of this section shall work with the council on  
23      a 0.50 full-time equivalent basis.

24      “SECTION 6. (1) The Department of Human Services shall contract with a contractor  
25      with experience and expertise in providing assistance and services to individuals with trau-  
26      matic brain injuries to:

27      “(a) Provide a preliminary report, created in collaboration with the contractor, contain-  
28      ing a comprehensive statewide plan to address the needs of individuals with traumatic brain  
29      injuries, including the use of public-private partnerships;

30      “(b) Provide a report on the development of a comprehensive statewide information and  
31      referral network outside the department for individuals with traumatic brain injuries;

32      “(c) Provide a report on the development of a statewide registry to collect data regarding  
33      individuals with traumatic brain injuries;

34      “(d) Provide a report on the efforts of the contractor to provide services for individuals  
35      with traumatic brain injuries;

36      “(e) By December 1, 2011, submit a final report, created in collaboration with the council,  
37      containing a comprehensive statewide plan to address the needs of individuals with traumatic  
38      brain injuries; and

39      “(f) Encourage and facilitate:

40      “(A) Collaboration among state agencies that provide services to individuals with trau-  
41      matic brain injuries;

42      “(B) Collaboration among nongovernmental entities that provide services to individuals  
43      with traumatic brain injuries; and

44      “(C) Community participation in the development of a comprehensive statewide plan to  
45      address the needs of individuals with traumatic brain injuries.

1       “(2) By December 1 of each even-numbered year, the contractor shall issue a report to  
2 the Governor and the Legislative Assembly containing:

3       “(a) A summary of action taken by the contractor to meet the needs of individuals with  
4 traumatic brain injuries; and

5       “(b) Recommendations for improvements in services to address the needs of individuals  
6 with traumatic brain injuries.

7       “**SECTION 7.** The Department of Human Services shall provide funding to the contractor  
8 for programs that facilitate existing support groups for individuals with traumatic brain in-  
9 juries and their families.

10       “**SECTION 8.** ORS 137.290 is amended to read:

11       “137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding  
12 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon  
13 the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this  
14 section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the  
15 unitary assessment shall also be imposed by the circuit court and county court in juvenile cases  
16 under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of a fine and  
17 shall be in an amount as follows:

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

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

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

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

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

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

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

28       “(B) ORS 811.111 (1)(b) by driving at least 65 miles per hour;

29       “(b) \$500 if the crime of conviction is a crime found in ORS chapter 163;

30       “(c) \$500 if the crime of conviction is a violation of ORS 475.890 or 475.892; [and]

31       “(d) \$1,000 if the crime of conviction is a violation of ORS 475.886 or 475.888[.]; and

32       “(e) **\$2 if the conviction is for a traffic violation, as defined in ORS 801.557.**

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

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

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

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

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

1 “(b) May not waive the portion of the unitary assessment required under subsection (2)(c) or (d)  
2 of this section, except in juvenile cases under ORS 419C.005 (1).

3 “**SECTION 9.** ORS 137.295 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

9       “(8) Notwithstanding subsection (5) of this section[,]:

10       “(a) **The clerk shall monthly transfer the moneys collected under ORS 137.290 (2)(e) to**  
11 **the State Treasurer for deposit in the Oregon Brain Injury Trust Fund established under**  
12 **section 10 of this 2009 Act; and**

13       “(b) The clerk of a circuit court shall monthly transfer the moneys attributable to parking vio-  
14 lations to the State Treasurer for deposit in the General Fund.

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

18       “**SECTION 10. (1) The Oregon Brain Injury Trust Fund is established in the State**  
19 **Treasury, separate and distinct from the General Fund. Interest earned by the trust fund**  
20 **shall be credited to the fund. Moneys in the trust fund are continuously appropriated to the**  
21 **Department of Human Services to fund the programs described in, and to carry out the**  
22 **provisions of, sections 1 to 7 of this 2009 Act.**

23       “(2) Notwithstanding ORS 293.190, moneys in the Oregon Brain Injury Trust Fund at the  
24 end of a biennium do not revert to the General Fund.

25       “**SECTION 11. Section 7 of this 2009 Act becomes operative on July 1, 2011.**

26       “**SECTION 12. The amendments to ORS 137.290 and 137.295 by sections 8 and 9 of this 2009**  
27 **Act apply to convictions for traffic violations committed on or after the effective date of this**  
28 **2009 Act.”.**

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