

# Senate Bill 737

Sponsored by COMMITTEE ON JUDICIARY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates \$10 fine payable by persons convicted of certain property crimes or crimes involving fraud or deception. Provides that moneys from fines be deposited in Treatment Program Fund.

Creates Treatment Program Fund. Continuously appropriates moneys in fund to Department of Corrections to fund treatment services for drug-addicted persons.

## A BILL FOR AN ACT

1  
2 Relating to criminal fines; creating new provisions; amending ORS 137.290, 137.295 and 305.830; and  
3 appropriating money.

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

5 **SECTION 1. (1) The Treatment Program Fund is established in the State Treasury, sep-**  
6 **arate and distinct from the General Fund. The Treatment Program Fund consists of moneys**  
7 **deposited in the fund under ORS 137.295 (5). Interest earned by the fund shall be credited to**  
8 **the fund.**

9 **(2) Moneys deposited in the Treatment Program Fund are continuously appropriated to**  
10 **the Department of Corrections for the purposes described in section 8 (1)(a) and (b)(B),**  
11 **chapter 14, Oregon Laws 2008.**

12 **SECTION 2.** ORS 137.290 is amended to read:

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

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

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

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

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

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

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

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

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

3 (d) \$1,000 if the crime of conviction is a violation of ORS 475.886 or 475.888; **and**

4 (e) **\$10 if the crime of conviction is a violation of ORS 819.300 or 819.310 or a crime found**  
 5 **in ORS chapter 164 or 165.**

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

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

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

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

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

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

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

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

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

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

28 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS  
 29 419C.450 and a monetary obligation imposed under ORS 811.706.

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

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

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

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

1 (5)(a) The clerk shall monthly transfer the moneys credited under category 1 and under category  
2 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-  
3 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first  
4 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the  
5 moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer  
6 moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have  
7 been ordered paid to the account under category 2. When the moneys due the account have been  
8 fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined  
9 in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in  
10 proportion to the amounts ordered.

11 (b) The clerk of a circuit court shall monthly transfer the moneys credited under category 3 as  
12 directed by the State Court Administrator for deposit in the State Treasury **first to the credit of**  
13 **the Treatment Program Fund established under section 1 of this 2009 Act for the fines de-**  
14 **scribed in ORS 137.290 (2)(e) until those fines are fully paid and then** to the credit of the  
15 Criminal Fine and Assessment Account established under ORS 137.300.

16 (c) The clerk of a justice or municipal court shall monthly transfer the moneys credited under  
17 category 3 to the Department of Revenue as provided in ORS 305.830.

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

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

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

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

36 **SECTION 4.** ORS 305.830 is amended to read:

37 305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts  
38 under ORS 137.295 shall be deposited in a suspense account established under ORS 293.445 for the  
39 purpose of receiving criminal fines and assessments.

40 (2) In carrying out its duties under this section, the Department of Revenue shall have access  
41 to the records and dockets of those courts charged with the duty to transfer moneys to the depart-  
42 ment under ORS 137.295.

43 (3) The Department of Revenue may retain from the funds transferred under ORS 137.295 an  
44 amount not to exceed two percent annually for its actual costs of collection and disbursement of  
45 funds under this section, including the cost of all examinations, investigations and searches, and of

1 all traveling and other expenses in connection therewith. The department shall deposit the net  
2 amount of moneys in the suspense account described in subsection (1) of this section **first into the**  
3 **Treatment Program Fund established under section 1 of this 2009 Act for the fines described**  
4 **in ORS 137.290 (2)(e) until those fines are fully paid and then** into the Criminal Fine and As-  
5 sessment Account for distribution as provided in ORS 137.300.

6 (4) All judicial, municipal and county officers shall cooperate with the Department of Revenue  
7 with respect to the collections, searches and investigations and shall furnish the Department of  
8 Revenue with any information contained in any of the records under their respective custodies re-  
9 lating thereto.

10 (5) The Department of State Police shall cooperate in the investigation of fines, penalties and  
11 forfeitures.

12 **SECTION 5. ORS 164.138, 164.160, 164.162, 164.164, 164.170, 164.172, 164.174, 164.272, 164.274,**  
13 **164.276, 164.278, 164.367, 164.381, 164.383, 164.386, 164.388, 164.814, 164.828, 164.864, 164.866,**  
14 **164.867, 164.868, 164.869, 164.872, 164.873, 164.882, 164.885, 164.887 and 164.889 are added to and**  
15 **made a part of ORS chapter 164.**

16 **SECTION 6. Section 1 of this 2009 Act and the amendments to ORS 137.290, 137.295 and**  
17 **305.830 by sections 2, 3 and 4 of this 2009 Act apply to offenses committed on or after the**  
18 **effective date of this 2009 Act.**