

HOUSE AMENDMENTS TO HOUSE BILL 2712

By COMMITTEE ON JUDICIARY

April 29

- 1 On page 1 of the printed bill, line 4, after “137.300,” insert “137.301.”
- 2 In line 5, after “153.624,” insert “153.800.”
- 3 In line 26, delete “section 2” and insert “sections 2, 10, 12, 22, 24 and 26”.
- 4 In line 27, delete “137.301.”
- 5 In line 28, delete “153.800.”
- 6 In line 31, after “830.145” insert “and section 1, chapter 659, Oregon Laws 2009”.
- 7 On page 2, delete lines 9 through 12 and insert:
- 8 “(a) \$385 for a Class A violation.
- 9 “(b) \$225 for a Class B violation.
- 10 “(c) \$140 for a Class C violation.
- 11 “(d) \$85 for a Class D violation.”
- 12 Delete lines 23 through 26 and insert:
- 13 “(a) \$770 for a Class A violation.
- 14 “(b) \$450 for a Class B violation.
- 15 “(c) \$280 for a Class C violation.
- 16 “(d) \$170 for a Class D violation.”
- 17 Delete lines 29 through 32 and insert:
- 18 “(3) A court may not defer, waive, suspend or otherwise reduce the fine for a violation that is
- 19 subject to the presumptive fines established by this section to an amount that is less than the
- 20 presumptive fine established under this section.
- 21 “**SECTION 4. Minimum fine for violations.** (1) Except as otherwise provided by law, a court
- 22 may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to the
- 23 presumptive fines established by section 2 of this 2011 Act to an amount that is less than:
- 24 “(a) \$290 for a Class A violation.
- 25 “(b) \$170 for a Class B violation.
- 26 “(c) \$105 for a Class C violation.
- 27 “(d) \$64 for a Class D violation.”
- 28 On page 3, line 1, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.
- 29 In line 2, delete “the effective date of this 2011 Act” and insert “January 1, 2012.”
- 30 In line 4, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.
- 31 In line 39, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.
- 32 In line 40, delete “the effective date of this 2011 Act” and insert “January 1, 2012.”
- 33 In line 41, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.
- 34 On page 4, line 44, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.
- 35 On page 6, line 43, delete “the effective date of this 2011” and insert “January 1, 2012”.

1 In line 44, delete the first “Act” and delete “the effective date of this 2011 Act” and insert
2 “January 1, 2012,”.

3 In line 45, delete “the effective” and insert “January 1, 2012”.

4 On page 7, line 1, delete “date of this 2011 Act”.

5 In line 38, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

6 In line 39, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

7 In line 40, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

8 On page 8, delete lines 17 through 19 and insert:
9 “(7) A statement notifying the person that, if the person pleads no contest and delivers to the
10 court the amount of the presumptive fine indicated on the citation:
11 “(a) The person may submit an explanation of the circumstances of the violation; and
12 “(b) The court may consider the explanation in establishing the amount of the fine, but in no
13 event can the court impose a fine that is less than the minimum fine established under section 4 of
14 this 2011 Act.
15 “(8) A statement notifying the person that, if the person pleads not guilty and requests a trial,
16 the court cannot impose a fine that is less than the minimum fine established under section 4 of this
17 2011 Act unless the person is found not guilty, in which case no fine will be imposed.”.

18 In line 21, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

19 In line 22, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

20 In line 23, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

21 On page 9, lines 23 and 24, restore the bracketed material.

22 In line 42, after the period insert “The court may consider any statement of explanation sub-
23 mitted with the plea.”.

24 On page 10, line 3, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

25 In line 4, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

26 In line 5, delete “the effective” and insert “January 1, 2012”.

27 In line 6, delete “date of this 2011 Act”.

28 In line 13, delete the second “and”.

29 After line 17, insert:
30 “(c) A requirement that the fine, costs and restitution, if any, be paid out of the presumptive
31 fine;
32 “(d) Remission of any balance of a presumptive fine to the defendant; and”.

33 In line 18, restore “(e)” and delete “(c)”.

34 On page 11, line 11, delete “the effective” and insert “January 1, 2012”.

35 In line 12, delete “date of this 2011 Act”.

36 In line 13, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

37 In line 14, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

38 In line 37, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

39 In line 38, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

40 In line 39, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

41 On page 13, delete lines 4 through 8 and insert:
42 “**SECTION 39. Sections 33 to 38 of this 2011 Act and the repeal of ORS 137.295 by section**
43 **118 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense**
44 **committed before January 1, 2012, shall continue to be governed by ORS 137.295 as in effect**
45 **immediately before January 1, 2012.”.**

1 On page 16, line 1, after “been” insert “required to be”.

2 On page 19, delete lines 42 through 45 and delete pages 20 and 21 and insert:

3 **“SECTION 51. Sections 47 to 50 of this 2011 Act and the repeal of ORS 153.630 by section**
4 **118 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense**
5 **committed before January 1, 2012, shall continue to be governed by ORS 153.630 as in effect**
6 **immediately before January 1, 2012.**

7
8 **“(Criminal Fine Account)**

9
10 **“SECTION 52.** ORS 137.300 is amended to read:

11 *“137.300. [(1) The Criminal Fine and Assessment Account is established in the General Fund of*
12 *the State Treasury. All moneys in the account are continuously appropriated to the Department of Re-*
13 *venue to be distributed by the Department of Revenue according to allocations made by the Legislative*
14 *Assembly. The Department of Revenue shall keep a record of moneys transferred into and out of the*
15 *account. The Department of Revenue shall report monthly to the Attorney General the amount of mon-*
16 *eys received from the state courts in each county and from each city court.]*

17 *“[(2) The Legislative Assembly shall allocate moneys in the account according to the following*
18 *priority:]*

19 *“[(a) Public safety standards, training and facilities;]*

20 *“[(b) Criminal injuries compensation and assistance to victims of crime and children reasonably*
21 *suspected of being victims of crime;]*

22 *“[(c) Forensic services of the Oregon State Police including, but not limited to, services of the State*
23 *Medical Examiner; and]*

24 *“[(d) Maintenance and operation of the Law Enforcement Data System.]*

25 *“[(3) Moneys in the account may not be allocated for:]*

26 *“[(a) The payment of debt service obligations; or]*

27 *“[(b) Any purpose other than those listed in subsection (2) of this section.]*

28 *“[(4) The Department of Revenue shall deposit in the General Fund all moneys remaining in the*
29 *account after the distributions required by subsections (1) and (2) of this section have been made.]*

30 *“[(5) The Department of Revenue shall establish by rule a process for distributing moneys in the*
31 *account.]*

32 *“[(6) The Department of Justice shall report monthly to the Department of Revenue the amount of*
33 *moneys ordered to be applied to child support under ORS 135.280.]*

34 **“(1) The Criminal Fine Account is established in the General Fund. Except as otherwise**
35 **provided by law, all amounts collected in state courts as monetary obligations in criminal**
36 **actions shall be deposited by the courts in the account. All moneys in the account are con-**
37 **tinuously appropriated to the Department of Revenue to be distributed by the Department**
38 **of Revenue as provided in this section. The Department of Revenue shall keep a record of**
39 **moneys transferred into and out of the account.**

40 **“(2) The Criminal Fine Account shall be divided into the Public Safety Subaccount and**
41 **the Miscellaneous Distributions Subaccount. Seventy percent of all moneys deposited in the**
42 **Criminal Fine Account shall be credited to the Public Safety Subaccount. The remaining 30**
43 **percent of moneys deposited in the Criminal Fine Account shall be credited to the Miscella-**
44 **neous Distributions Subaccount.**

45 **“(3) The Legislative Assembly shall make allocations from the Public Safety Subaccount**

1 for the following purposes in the following order of priority:

2 “(a) Allocations for public safety standards, training and facilities.

3 “(b) Allocations for criminal injuries compensation and assistance to victims of crime and
4 children reasonably suspected of being victims of crime.

5 “(c) Allocations for the forensic services provided by the Oregon State Police including,
6 but not limited to, services of the State Medical Examiner.

7 “(d) Allocations for the maintenance and operation of the Law Enforcement Data Sys-
8 tem.

9 “(4) The Legislative Assembly shall make allocations from the Miscellaneous Distrib-
10 utions Subaccount for the following purposes, without order of priority:

11 “(a) Allocations to the Law Enforcement Medical Liability Account established under
12 ORS 414.815.

13 “(b) Allocations to the State Court Facilities Security Account established under ORS
14 1.178.

15 “(c) Allocations to the State Court Administrator for the purpose of distributing moneys
16 to counties under the Court Security Program established under section 59 of this 2011 Act.

17 “(d) Allocations to the Department of Corrections for community corrections grants un-
18 der ORS 423.520.

19 “(e) Allocations to the Oregon Health Authority for the purpose of grants under ORS
20 430.345 for the establishment, operation and maintenance of alcohol and drug abuse pre-
21 vention, early intervention and treatment services provided through a county.

22 “(f) Allocations to the Oregon State Police for the purpose of the enforcement of the laws
23 relating to driving under the influence of intoxicants.

24 “(g) Allocations to the Arrest and Return Account established under ORS 133.865.

25 “(h) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

26 “(5) Each biennium, the Department of Revenue shall distribute from the Miscellaneous
27 Distributions Subaccount \$1.9 million to the counties of this state. The distribution to each
28 county shall be based on revenues received by the Department of Revenue from judgments
29 in criminal actions in the circuit court for the county. Amounts distributed to counties un-
30 der this subsection may be used only for the construction, operation and maintenance of
31 circuit court facilities. The Department of Revenue shall distribute one-eighth of the
32 amounts specified in this subsection at the end of each quarter.

33 “(6) It is the intent of the Legislative Assembly that allocations from the Criminal Fine
34 Account under subsections (3) and (4) of this section be consistent with historical funding
35 of the entities, programs and accounts listed in subsections (3) and (4) of this section from
36 monetary obligations imposed in criminal proceedings.

37 “(7) Moneys in the Criminal Fine Account may not be allocated for the payment of debt
38 service obligations.

39 “(8) The Department of Revenue shall deposit in the General Fund all moneys remaining
40 in the Criminal Fine Account after the distributions required by this section have been made.

41 “(9) The Department of Revenue shall establish by rule a process for distributing moneys
42 in the Criminal Fine Account and for reducing the amount of distributions when amounts in
43 the account are not adequate to fund the allocation or other distribution. Reductions shall
44 be proportionate to the amount allocated or otherwise distributed to an entity, program or
45 account as compared to all allocations and distributions made from the account for the

1 **biennium.**

2 **“SECTION 52a.** ORS 137.301 is amended to read:

3 **“137.301.** The Legislative Assembly finds that:

4 **“(1)** Systems critical components of the Oregon criminal justice system exist that require the
5 highest priority considerations for funding from the Criminal Fine [*and Assessment*] Account.

6 **“(2)** The systems critical components of the Oregon criminal justice system are interrelated and
7 essential to the initiation and successful conclusion of criminal investigations.

8 **“(3)** The interests of victims of crime and other Oregonians are advanced by the ability of the
9 public safety community to respond professionally to reports of criminal activity and to successfully
10 investigate criminal cases in a manner that protects the constitutional rights of all Oregonians.

11 **“(4)** The effective training of police officers, corrections officers, parole and probation officers
12 and other first responders increases the likelihood that crimes will be solved quickly and that the
13 needs of victims of crime will be met.

14 **“(5)** The collection of evidence at crime scenes, the forensic processing of the evidence by
15 qualified, well-trained technicians and the work of medical examiners are critical statewide func-
16 tions that allow all Oregonians an equal opportunity to justice.

17 **“(6)** The collection of criminal information such as that retained in the Law Enforcement Data
18 System enhances the ability of investigators to identify criminals and the unnamed victims of violent
19 crimes.

20 **“(7)** Timely intervention on behalf of victims of crime through effective assistance programs
21 makes recovery from victimization possible and is necessary to the well-being of Oregonians ad-
22 versely affected by violent crime.

23 **“SECTION 53.** Notwithstanding section 52 of this 2011 Act, for the period beginning Jan-
24 uary 1, 2012, and ending June 30, 2013, the Department of Revenue shall distribute the mon-
25 eys in the Criminal Fine Account as specified in sections 54 to 58 of this 2009 Act.

26 **“SECTION 54.** There are allocated to the Department of Public Safety Standards and
27 Training for the period beginning January 1, 2012, and ending June 30, 2013, from the Public
28 Safety Subaccount of the Criminal Fine Account the following amounts for the following
29 purposes:

30 (1) **Police Standards and Training**
31 **Account for criminal**
32 **justice training and**
33 **standards operations..... \$ _____**

34 (2) **Public Safety Memorial Fund**
35 **established under ORS 243.950.. \$ _____**

36 **“SECTION 55.** There are allocated to the Department of Human Services for the period
37 beginning January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of
38 the Criminal Fine Account the following amounts for the following purposes:

39 (1) **Domestic Violence Fund**
40 **for the purpose of**
41 **ORS 409.292 (1)(a) to (c)..... \$ _____**

42 (2) **Sexual Assault Victims Fund.... \$ _____**

43 **“SECTION 55a.** There is allocated to the Oregon Health Authority for the period begin-
44 ning January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of the
45 Criminal Fine Account \$_____ for the Emergency Medical Services and Trauma Systems

1 Program created under ORS 431.623.

2 "SECTION 56. There are allocated to the Department of Justice for the period beginning
3 January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of the Criminal
4 Fine Account the following amounts for the following purposes:

- 5 (1) Criminal Injuries Compensation
6 Account..... \$ _____
- 7 (2) Services to children eligible for
8 compensation under ORS 147.390
9 and costs to administer provision
10 of these services, which costs
11 may not exceed five percent.... \$ _____
- 12 (3) Child Abuse Multidisciplinary
13 Intervention Account..... \$ _____
- 14 (4) Creation and operation of a
15 statewide system of regional
16 assessment centers as provided
17 under ORS 418.746 to 418.796 \$ _____

18 "SECTION 57. (1) There is allocated \$_____ from the Miscellaneous Distributions Sub-
19 account of the Criminal Fine Account to the Law Enforcement Medical Liability Account
20 established under ORS 414.815, for the period beginning January 1, 2012, and ending June 30,
21 2013.

22 "(2) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
23 Criminal Fine Account to the State Court Facilities Security Account established under ORS
24 1.178, for the period beginning January 1, 2012, and ending June 30, 2013.

25 "(3) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
26 Criminal Fine Account to the State Court Administrator for the period beginning January
27 1, 2012, and ending June 30, 2013, for the purpose of distributions under the Court Security
28 Program established under section 59 of this 2011 Act.

29 "(4) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
30 Criminal Fine Account to the Department of Corrections for the period beginning January
31 1, 2012, and ending June 30, 2013, for the purpose of community corrections grants under
32 ORS 423.520.

33 "(5) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
34 Criminal Fine Account to the Oregon Health Authority for the period beginning January 1,
35 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the estab-
36 lishment, operation and maintenance of alcohol and drug abuse prevention, early inter-
37 vention and treatment services provided through a county.

38 "(6) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
39 Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012,
40 and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving
41 under the influence of intoxicants.

42 "(7) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
43 Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for
44 the period beginning January 1, 2012, and ending June 30, 2013.

45 "(8) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the

1 **Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270**
2 **for the period beginning January 1, 2012, and ending June 30, 2013.**

3 **“SECTION 58. After distributing the amounts specified in sections 54 to 57 of this 2011**
4 **Act, the Department of Revenue shall distribute funds remaining in the Criminal Fine Ac-**
5 **count to the General Fund.”.**

6 On page 22, delete lines 1 through 42.

7 On page 28, delete lines 22 through 27 and insert:

8 **“SECTION 68. The amendments to ORS 496.992, 497.415, 498.153, 498.154, 498.155 and**
9 **498.222 by sections 63 to 66 of this 2011 Act and the repeal of ORS 496.715 and 496.951 by**
10 **section 67 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any**
11 **offense committed before January 1, 2012, shall continue to be governed by ORS 496.715,**
12 **496.951, 496.992, 497.415, 498.153, 498.154, 498.155 and 498.222 as in effect immediately before**
13 **January 1, 2012.”.**

14 After line 33, insert:

15 **“SECTION 68a.** Section 10, chapter 659, Oregon Laws 2009, is amended to read:

16 **“Sec. 10.** (1) The amendments to ORS 135.265 by section 9, **chapter 659, Oregon Laws 2009,**
17 *[of this 2009 Act]* apply only to security deposits made on or after October 1, 2009, and before *[July*
18 *1, 2011]* **January 1, 2012.**

19 **“(2)** All amounts retained in a circuit court under ORS 135.265 as security deposit costs from
20 security deposits made on or after October 1, 2009, and before *[July 1, 2011]* **January 1, 2012,** that
21 are in excess of \$200 shall be deposited in the *[Judicial System Surcharge]* **Criminal Fine and As-**
22 **essment** Account. All amounts retained in a justice court under ORS 135.265 as security deposit
23 costs from security deposits made on or after October 1, 2009, and before *[July 1, 2011]* **January**
24 **1, 2012,** that are in excess of \$200 shall be paid to the county treasurer. All amounts retained in a
25 municipal court under ORS 135.265 as security deposit costs from security deposits made on or after
26 October 1, 2009, and before *[July 1, 2011]* **January 1, 2012,** that are in excess of \$200 shall be paid
27 to the city treasurer.

28 **“(3)** The collections and revenue management program established under ORS 1.204 may not be
29 reimbursed under ORS 1.204 from amounts retained as security deposit costs that are in excess of
30 \$200 pursuant to the amendments to ORS 135.265 by section 9, **chapter 659, Oregon Laws 2009**
31 *[of this 2009 Act]*.

32 **“SECTION 68b.** Section 12, chapter 659, Oregon Laws 2009, is amended to read:

33 **“Sec. 12.** (1) The amendments to ORS 135.265 by section 11, **chapter 659, Oregon Laws 2009,**
34 *[of this 2009 Act]* become operative *[July 1, 2011]* **January 1, 2012.**

35 **“(2)** The amendments to ORS 135.265 by section 11, **chapter 659, Oregon Laws 2009,** *[of this*
36 *2009 Act]* do not affect the amount of security release costs that may be deducted from security
37 amounts deposited on or after October 1, 2009, and before *[July 1, 2011]* **January 1, 2012.”.**

38 On page 29, line 22, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

39 After line 25, insert:

40 **“SECTION 70a.** Section 22, chapter 659, Oregon Laws 2009, is amended to read:

41 **“Sec. 22.** (1) The amendments to ORS 137.540 by section 21, **chapter 659, Oregon Laws 2009,**
42 *[of this 2009 Act]* apply only to orders of probation and probation violation determinations made on
43 or after October 1, 2009, and before *[July 1, 2011]* **January 1, 2012.**

44 **“(2)** The collections and revenue management program established under ORS 1.204 may not be
45 reimbursed under ORS 1.204 from assessments imposed by a court under the amendments to ORS

1 137.540 by section 21, **chapter 659, Oregon Laws 2009** [of this 2009 Act].

2 “**SECTION 70b.** Section 24, chapter 659, Oregon Laws 2009, is amended to read:

3 “**Sec. 24.** (1) The amendments to ORS 137.540 by section 23, **chapter 659, Oregon Laws 2009,**
4 [of this 2009 Act] become operative [July 1, 2011] **January 1, 2012.**

5 “(2) The amendments to ORS 137.540 by section 23, **chapter 659, Oregon Laws 2009,** [of this
6 2009 Act] do not affect any fee or assessment that was added to a judgment under ORS 137.540 be-
7 fore [July 1, 2011] **January 1, 2012.**

8 “**SECTION 70c.** ORS 137.540 is amended to read:

9 “137.540. (1) The court may sentence the defendant to probation subject to the following general
10 conditions unless specifically deleted by the court. The probationer shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 “(n) Participate in a mental health evaluation as directed by the supervising officer and follow

1 the recommendation of the evaluator.

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

3 “(p) If required to report as a sex offender under ORS 181.596, report with the Department of
4 State Police, a city police department, a county sheriff’s office or the supervising agency:

5 “(A) When supervision begins;

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

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

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

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

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

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

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

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

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

38 “(a) ‘Dwelling’ has the meaning given that term in ORS 469.160.

39 “(b) ‘Dwelling’ does not include a residential treatment facility or a halfway house.

40 “(c) ‘Halfway house’ means a publicly or privately operated profit or nonprofit residential facil-
41 ity that provides rehabilitative care and treatment for sex offenders.

42 “(d) ‘Sex offender’ has the meaning given that term in ORS 181.594.

43 “(4)(a) If the person is released on probation following conviction of a sex crime, as defined in
44 ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years
45 of age, the court, if requested by the victim, shall include as a special condition of the person’s

1 probation that the person not reside within three miles of the victim unless:

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

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

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

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

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

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

18 “(5) When a person who is a sex offender, as defined in ORS 181.594, is released on probation,
19 the Department of Corrections or the county community corrections agency, whichever is appropri-
20 ate, shall notify the city police department, if the person is going to reside within a city, and the
21 county sheriff’s office of the county in which the person is going to reside of the person’s release
22 and the conditions of the person’s release.

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

27 “(7) The court may order that probation be supervised by the court. If the court orders that
28 probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees im-
29 posed under this subsection in the circuit court shall be deposited by the clerk of the court in the
30 [*Judicial System Surcharge*] **Criminal Fine and Assessment** Account. Fees imposed in a justice
31 court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court
32 under this subsection shall be paid to the city treasurer.

33 “(8) The court may at any time modify the conditions of probation.

34 “(9) A court may not order revocation of probation as a result of the probationer’s failure to
35 pay restitution unless the court determines from the totality of the circumstances that the purposes
36 of the probation are not being served.

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

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

1 subsection shall be paid to the city treasurer.

2 “(12) As used in this section, ‘attends,’ ‘institution of higher education,’ ‘works’ and ‘carries on
3 a vocation’ have the meanings given those terms in ORS 181.594.”.

4 On page 32, line 24, delete “the effective” and insert “January 1, 2012”.

5 In line 25, delete “date of this 2011 Act”.

6 After line 28, insert:

7 “**SECTION 72a.** Section 26, chapter 659, Oregon Laws 2009, is amended to read:

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

11 “(2) This section applies only to petitions for diversion filed on or after October 1, 2009, and
12 before [July 1, 2011] **January 1, 2012.**

13 “(3) Fees imposed under this section in the circuit court shall be deposited by the clerk of the
14 court in the [Judicial System Surcharge] **Criminal Fine and Assessment** Account. Fees imposed in
15 a justice court under this section shall be paid to the county treasurer. Fees imposed in a municipal
16 court under this section shall be paid to the city treasurer.

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

19 In line 44, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

20 On page 33, line 18, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

21 In line 33, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

22 On page 43, line 33, delete “and is punishable”.

23 On page 53, line 35, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

24 In line 36, delete “the effective date of this 2011 Act” and insert “January 1, 2012,”.

25 In line 40, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

26 On page 56, delete lines 43 through 45 and insert:

27 “**SECTION 117. The amendments to ORS 811.230, 811.235 and 811.483 by sections 114, 115
28 and 116 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any
29 offense committed before January 1, 2012, shall continue to be governed by ORS 811.230,
30 811.235 and 811.483 as in effect immediately before January 1, 2012.”.**

31 On page 57, delete lines 1 and 2.

32 In line 7, delete “137.301,”.

33 On page 59, line 31, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

34 On page 74, delete lines 4 through 45 and insert:

35
36 **“STATEWIDE FINE SCHEDULE FOR CIRCUIT COURTS**

37
38 “**SECTION 149.** ORS 153.800 is amended to read:

39 “153.800. (1) Any court of this state may establish a Violations Bureau and designate the clerk
40 or deputy clerk of the court or any other appropriate person to act as a violations clerk for the
41 Violations Bureau. [A *Violations Bureau shall be established by each circuit court unless the Chief
42 Justice of the Supreme Court issues a written exemption to the presiding judge for the court.*] The vi-
43 olations clerk shall serve under the direction and control of the court appointing the clerk.

44 “(2) A violations clerk may exercise authority over any violation. A court establishing a Vio-
45 lations Bureau shall by order specify the violations that are subject to the authority of the vio-

1 lations clerk.

2 “(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

3 “(a) Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assess-
4 ments for violations that are subject to the authority of the violations clerk; or

5 “(b) Payment of [base] **presumptive** fine amounts for violations that are subject to the authority
6 of the violations clerk.

7 “(4)(a) [The court] **Courts other than circuit courts** shall establish schedules, within the limits
8 prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent vio-
9 lations, designating each violation specifically or by class. The order of the court establishing the
10 schedules shall be prominently posted in the place where penalties established under the schedule
11 are paid.

12 “(b) **The Chief Justice of the Supreme Court shall establish a uniform fine schedule for**
13 **circuit courts.**

14 “(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the
15 same manner as other payments on money judgments are received by the court.

16 “(5) Any person charged with a violation within the authority of the violations clerk may:

17 “(a) Upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the penalty
18 established for the violation charged, including any costs and assessments authorized by law.

19 “(b) Pay the clerk the [base] **presumptive** fine amount established for the violation. Payment
20 of the [base] **presumptive** fine amount under this paragraph constitutes consent to forfeiture of the
21 [base] **presumptive** fine amount and disposition of the violation by the clerk as provided by the
22 rules of the court. Payment of [base] **presumptive** fine amount under this paragraph is not consent
23 to forfeiture of the [base] **presumptive** fine amount if the payment is accompanied by a plea of not
24 guilty or a request for hearing.

25 “(6) A person who has been found guilty of, or who has signed a plea of [guilty or] no contest
26 to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court
27 shall not be permitted to appear before the violations clerk unless the court, by general order ap-
28 plying to certain specified offenses, permits such appearance.

29 30 “ELIMINATION OF OFFENSE SURCHARGE

31
32 “**SECTION 150.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter
33 107, Oregon Laws 2010, is amended to read:

34 “**Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding
35 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
36 the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense sur-
37 charge under this section. Except when the person successfully asserts the defense set forth in ORS
38 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in ju-
39 venile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a
40 fine and shall be in an amount as follows:

41 “(a) \$35 in the case of a felony.

42 “(b) \$35 in the case of a misdemeanor.

43 “(c) \$45 in the case of a violation as described in ORS 153.008.

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

1 “(3) The offense surcharge required by this section shall be imposed only for offenses that are
2 committed on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012.**

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

5 “(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed
6 and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full
7 amount of the offense surcharge.

8 “(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary
9 obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Of-
10 fense surcharges imposed in a justice court, county court or municipal court under this section are
11 category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided
12 in ORS 137.295. Amounts collected as offense surcharges under this section [*may not be deposited in*
13 *the Criminal Fine and Assessment Account, or transferred to the Department of Revenue, under ORS*
14 *137.295 (5), but*] must be deposited or paid as follows:

15 “(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
16 venue in the [*Judicial System Surcharge*] **Criminal Fine and Assessment** Account.

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

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

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

22 “**SECTION 150a.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter
23 107, Oregon Laws 2010, and section 150 of this 2011 Act, is amended to read:

24 “**Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding
25 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
26 the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense sur-
27 charge under this section. Except when the person successfully asserts the defense set forth in ORS
28 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in ju-
29 venile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a
30 fine and shall be in an amount as follows:

31 “(a) \$35 in the case of a felony.

32 “(b) \$35 in the case of a misdemeanor.

33 “(c) \$45 in the case of a violation as described in ORS 153.008.

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

36 “(3) The offense surcharge required by this section shall be imposed only for offenses that are
37 committed on or after October 1, 2009, and before January 1, 2012.

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

40 “(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed
41 and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full
42 amount of the offense surcharge.

43 “(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary
44 obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Of-
45 fense surcharges imposed in a justice court, county court or municipal court under this section are

1 category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided
2 in ORS 137.295. Amounts collected as offense surcharges under this section must be deposited or
3 paid as follows:

4 “(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
5 venue in the Criminal Fine [*and Assessment*] Account.

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

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

9 “(6) The collections and revenue management program established under ORS 1.204 may be re-
10 imburSED under ORS 1.204 from amounts imposed as offense surcharges under this section.

11 **“SECTION 150b. Section 1, chapter 659, Oregon Laws 2009, is repealed.**

12 **“SECTION 150c. Any funds in the Judicial System Surcharge Account on the effective
13 date of this 2011 Act shall be transferred by the State Treasurer to the Criminal Fine and
14 Assessment Account.”.**

15 On page 94, line 40, before “Class” insert “a”.

16 On page 124, line 39, delete “the effective date of this 2011 Act” and insert “January 1, 2012”.

17 After line 45, insert:
18
19

20 **“OPERATIVE DATES**

21 **“SECTION 311a. (1) Except as provided in subsection (2) of this section, the provisions
22 of this 2011 Act become operative January 1, 2012.**

23 **“(2) Sections 150c and 311 of this 2011 Act, the amendments to ORS 137.540 and sections
24 2, 10, 12, 22, 24 and 26, chapter 659, Oregon Laws 2009, by sections 68a, 68b, 70a, 70b, 70c, 72a
25 and 150 of this 2011 Act and the repeal of section 1, chapter 659, Oregon Laws 2009, by section
26 150b of this 2011 Act become operative on the effective date of this 2011 Act.”.**
27
