

**A-Engrossed**  
**Senate Bill 430**

Ordered by the Senate April 11  
Including Senate Amendments dated April 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

**SUMMARY**

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

Includes specified crimes as prohibited conduct for purposes of civil forfeiture.  
**Includes Court Appointed Special Advocate Volunteer Program as permissible recipient of forfeiture proceeds that remain after statutorily required disbursements.**  
Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to civil forfeiture; creating new provisions; amending ORS 131A.005 and 131A.360; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 131A.005 is amended to read:

6 131A.005. As used in this chapter:

7 (1) "All persons known to have an interest" means:

8 (a) Any person who filed a notice of interest for seized property with any public office, in the  
9 manner required or permitted by law, before the property was seized for forfeiture;

10 (b) Any person from whose custody property is seized for forfeiture; and

11 (c) Any person who has an interest in property seized for forfeiture, including all owners and  
12 occupants of the property, whose identity and address is known or is ascertainable upon diligent  
13 inquiry and whose rights and interest in the property may be affected by the action.

14 (2) "Attorney fees" has the meaning given that term in ORCP 68 A.

15 (3) "Financial institution" means any person lawfully conducting business as:

16 (a) A financial institution or trust company, as those terms are defined in ORS 706.008;

17 (b) A consumer finance company subject to the provisions of ORS chapter 725;

18 (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 86A.100, a  
19 mortgage servicing company or other mortgage company;

20 (d) An officer, agency, department or instrumentality of the federal government, including but  
21 not limited to:

22 (A) The Secretary of Housing and Urban Development;

23 (B) The Federal Housing Administration;

24 (C) The United States Department of Veterans Affairs;

25 (D) Rural Development and the Farm Service Agency of the United States Department of Agri-  
26 culture;

**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 (E) The Federal National Mortgage Association;  
2 (F) The Government National Mortgage Administration;  
3 (G) The Federal Home Loan Mortgage Corporation;  
4 (H) The Federal Agricultural Mortgage Corporation; and  
5 (I) The Small Business Administration;  
6 (e) An agency, department or instrumentality of the state, including but not limited to:  
7 (A) The Housing and Community Services Department;  
8 (B) The Department of Veterans' Affairs; and  
9 (C) The Public Employees Retirement System;  
10 (f) An agency, department or instrumentality of any local government, as defined by ORS  
11 174.116, or special government body, as defined by ORS 174.117, including but not limited to such  
12 agencies as the Portland Development Commission;  
13 (g) An insurer as defined in ORS 731.106;  
14 (h) A private mortgage insurance company;  
15 (i) A pension plan or fund or other retirement plan; and  
16 (j) A broker-dealer or investment adviser as defined in ORS 59.015.  
17 (4) "Forfeiting agency" means a public body that is seeking forfeiture of property under this  
18 chapter.  
19 (5) "Forfeiture counsel" means an attorney designated by a forfeiting agency to represent the  
20 forfeiting agency in forfeiture proceedings.  
21 (6) "Forfeiture proceeds" means all property that has been forfeited in a proceeding under this  
22 chapter, including money, earnings from forfeited property and amounts realized from the sale of  
23 forfeited property.  
24 (7) "Instrumentality" has the meaning given in ORS 131.550.  
25 (8) "Law enforcement agency" means any agency that employs police officers or prosecutes  
26 criminal cases.  
27 (9) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360  
28 that has had the vehicle's original design modified by a person other than the manufacturer to cre-  
29 ate a container, space or enclosure for the purpose of concealing, hiding or otherwise preventing  
30 discovery of its contents and that is used or intended to be used to facilitate the commission of a  
31 criminal offense.  
32 (10) "Police officer" has the meaning given that term in ORS 133.525.  
33 (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from pro-  
34 hibited conduct, or maintained by or realized through prohibited conduct. "Proceeds of prohibited  
35 conduct" includes any benefit, interest or property of any kind, without reduction for expenses of  
36 acquiring or maintaining the property.  
37 (12) "Prohibited conduct" means:  
38 (a) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a provision  
39 of ORS 475.005 to 475.285 and 475.805 to 475.980 when the conduct constitutes the commission of a  
40 crime as described in ORS 161.515;  
41 **(b) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a pro-**  
42 **vision of ORS 163.263, 163.264, 163.266 or 167.017; and**  
43 [(b)] (c) Other conduct that constitutes the commission of a crime as described in ORS 161.515,  
44 that provides for civil forfeiture of proceeds or instrumentalities of the conduct and that is made  
45 subject to the provisions of this chapter under ORS 131A.010 (4) or other law.

1 (13) "Property" means any interest in anything of value, including the whole of any lot or tract  
2 of land and tangible and intangible personal property, including currency, instruments or securities  
3 or any other kind of privilege, interest, claim or right whether due or to become due.

4 (14) "Public body" has the meaning given in ORS 174.109.

5 (15) "Seizing agency" means a law enforcement agency that has seized property for forfeiture.

6 (16) "Weapon" means any instrument of offensive or defensive combat or anything used, or de-  
7 signed to be used, in destroying, defeating or injuring a person.

8 **SECTION 2.** ORS 131A.360 is amended to read:

9 131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the  
10 state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by ORS  
11 131A.005 (12)(a).

12 (2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement,  
13 under ORS chapter 190, with the county in which the property was seized to provide a portion of  
14 the forfeiture proceeds to the county.

15 (3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture  
16 proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the  
17 case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses  
18 such as the provision of currency for undercover law enforcement operations, the cost of disabling  
19 a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The  
20 forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and  
21 operation of a seizing or forfeiting agency under this subsection.

22 (4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:

23 (a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount  
24 in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS  
25 475.495 (5) and (6);

26 (b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount  
27 in the Asset Forfeiture Oversight Account;

28 (c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in  
29 the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement  
30 to drug court programs as described in ORS 3.450; and

31 (d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in  
32 the State Commission on Children and Families Account established by ORS 417.733 for disburse-  
33 ment to relief nurseries as described in ORS 417.788.

34 (5) If the forfeiting agency has entered into an agreement with a county under subsection (2)  
35 of this section, after paying costs under subsection (3) of this section and making the deductions  
36 required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts  
37 required by the agreement.

38 (6) After making all payments and deductions required by subsections (3), (4) and (5) of this  
39 section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received  
40 by a county under subsection (5) of this section or by a any other public body under an intergov-  
41 ernmental agreement entered into under ORS 131A.355, only for:

42 (a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful  
43 delivery, distribution, manufacture or possession of controlled substances;

44 (b) Currency for undercover law enforcement operations;

45 (c) Drug awareness and drug education programs offered in middle schools and high schools;

1 (d) The expenses of a forfeiting agency in operating joint narcotic operations with other for-  
2 feiting agencies pursuant to the terms of an intergovernmental agreement, including paying for  
3 rental space, utilities and office equipment; *[and]*

4 (e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution,  
5 manufacture or possession of controlled substances, as determined through intergovernmental  
6 agreement between the forfeiting agency and the district attorney; **and**

7 **(f) A Court Appointed Special Advocate Volunteer Program.**

8 (7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment  
9 seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled  
10 substances may be donated to a public school, community college or institution of higher education.

11 (8) A forfeiting agency shall sell as much property as may be needed to make the distributions  
12 required by this section. Distributions required under subsection (4) of this section must be made  
13 once every three months and are due within 20 days of the end of each quarter. No interest shall  
14 accrue on amounts that are paid within the period specified by this subsection.

15 **SECTION 3. The amendments to ORS 131A.005 by section 1 of this 2011 Act apply to**  
16 **conduct occurring on or after the effective date of this 2011 Act.**

17 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
19 **on its passage.**

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