

Senate Bill 881

Sponsored by Senator WINTERS

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**.

Requires law enforcement agency to take DNA sample of person arrested for certain crimes. Requires destruction of sample, upon person's request, if arrest leads to acquittal, dismissal, reversal of conviction or expiration of statute of limitations.

Increases assessment imposed on persons convicted of offense by \$5. Includes obtaining and testing DNA as purpose for which moneys may be allocated from Criminal Fine and Assessment Account.

A BILL FOR AN ACT

1
2 Relating to offenses; creating new provisions; and amending ORS 137.076, 137.290, 137.300, 181.085,
3 181.511, 419A.260 and 419C.473.

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

5 **SECTION 1. (1) A law enforcement agency shall obtain a blood or buccal sample in ac-**
6 **cordance with this section for any person who is arrested for:**

7 (a) A person felony, as that term is defined in the rules of the Oregon Criminal Justice
8 Commission;

9 (b) A sex crime, as defined in ORS 181.594; or

10 (c) Burglary in the first degree, as defined in ORS 164.225.

11 (2)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed
12 professional nurse, a licensed practical nurse, a qualified medical technician, a licensed phy-
13 sician or a person acting under the direction or control of a licensed physician.

14 (b) A buccal sample may be obtained by anyone authorized to do so by the arresting law
15 enforcement agency. The person obtaining the buccal sample shall follow collections proce-
16 dures established by the Department of State Police.

17 (c) A test result, or an opinion based upon a test result, of a blood or buccal sample ob-
18 tained under this section is not inadmissible as evidence solely because of deviations from
19 procedures adopted by the department that do not affect the reliability of the opinion or test
20 result.

21 (d) A person authorized by this section to obtain a blood or buccal sample may not be
22 held civilly liable for obtaining a sample in accordance with this section.

23 (3) A sample is not required to be obtained under this section if:

24 (a) The law enforcement agency has previously obtained an adequate blood or buccal
25 sample of the person;

26 (b) The department notifies the law enforcement agency that it has previously received
27 an adequate blood or buccal sample of the person in accordance with ORS 137.076, 161.325 or
28 419C.473; or

29 (c) Obtaining a sample would create a substantial and unreasonable risk to the health

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 **of the arrested person.**

2 **(4) The law enforcement agency shall cause the blood or buccal sample to be transmitted**
 3 **to the department in accordance with any procedures that may be established by the de-**
 4 **partment.**

5 **SECTION 2.** ORS 181.511 is amended to read:

6 181.511. (1) A law enforcement agency immediately upon the arrest of a person for a crime for
 7 which criminal offender information must be provided under ORS 181.515 shall:

8 (a) Place the arrested person's fingerprints and identifying data on forms prescribed or furnished
 9 by the Department of State Police bureau of criminal identification, photograph the arrested person
 10 and promptly transmit the form and photograph to the bureau.

11 (b) If the arrest is disposed of by the arresting agency, cause the disposition report to be com-
 12 pleted and promptly transmitted to the bureau.

13 (c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded,
 14 except as otherwise provided in section 3, chapter 553, Oregon Laws 1987, to the court that will
 15 dispose of the charge, for further action in accordance with ORS 181.521.

16 **(2) A law enforcement agency, immediately upon the arrest of a person for a crime listed**
 17 **in section 1 (1) of this 2011 Act, shall obtain a blood or buccal sample from the person in**
 18 **accordance with section 1 of this 2011 Act.**

19 [(2)] (3) A law enforcement agency may record, in addition to fingerprints, the palm prints, sole
 20 prints, toe prints or other personal identifiers when, in the discretion of the agency, it is necessary
 21 to effect identification of the persons or to the investigation of the crime charged.

22 [(3)] (4) A law enforcement agency, for the purpose of identification, may record and submit to
 23 the bureau the fingerprints of persons arrested for crimes for which criminal offender information
 24 is not required under ORS 181.515.

25 **SECTION 3.** ORS 181.085 is amended to read:

26 181.085. (1) The Department of State Police is authorized to:

27 (a) Store blood and buccal samples received under authority of this section, ORS 137.076, 161.325
 28 and 419C.473 (1) and section 2, chapter 852, Oregon Laws 2001, **and section 1 of this 2011 Act** and
 29 other physical evidence obtained from analysis of such samples;

30 (b) Analyze such samples for the purpose of establishing the genetic profile of the donor or
 31 otherwise determining the identity of persons or contract with other qualified public or private
 32 laboratories to conduct that analysis;

33 (c) Maintain a criminal identification database containing information derived from blood and
 34 buccal analyses;

35 (d) Utilize such samples to create statistical population frequency databases, provided that ge-
 36 netic profiles or other such information in a population frequency database shall not be identified
 37 with specific individuals; and

38 (e) Adopt rules establishing procedures for obtaining, transmitting and analyzing blood and
 39 buccal samples and for storing and destroying blood and buccal samples and other physical evidence
 40 and criminal identification information obtained from such analysis. Procedures for blood and buccal
 41 analyses may include all techniques which the department determines are accurate and reliable in
 42 establishing identity, including but not limited to, analysis of DNA (deoxyribonucleic acid), antigen
 43 antibodies, polymorphic enzymes or polymorphic proteins.

44 (2) If the department is unable to analyze all samples due to lack of funds, the department shall
 45 analyze samples in the following order:

- 1 (a) The department shall first analyze samples from persons convicted of:
- 2 (A) Rape, sodomy, unlawful sexual penetration, sexual abuse, public indecency, incest or using
3 a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to
4 163.427, 163.465 (1)(c), 163.525 and 163.670;
- 5 (B) Burglary in the second degree, as defined in ORS 164.215;
- 6 (C) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;
- 7 (D) Burglary in the first degree, as defined in ORS 164.225;
- 8 (E) Assault in the first, second or third degree, as defined in ORS 163.165, 163.175 and 163.185;
- 9 (F) Kidnapping in the first or second degree, as defined in ORS 163.225 and 163.235;
- 10 (G) Stalking, as defined in ORS 163.732;
- 11 (H) Robbery in the first, second or third degree, as defined in ORS 164.395, 164.405 and 164.415;
- 12 (I) Manslaughter in the first or second degree, as defined in ORS 163.118 and 163.125;
- 13 (J) Criminally negligent homicide, as defined in ORS 163.145;
- 14 (K) Aggravated vehicular homicide, as defined in ORS 163.149;
- 15 (L) Conspiracy or attempt to commit any felony listed in subparagraphs (A) to (J) of this para-
16 graph; or
- 17 (M) Murder, aggravated murder or an attempt to commit murder or aggravated murder.
- 18 (b) After analyzing samples from persons described in paragraph (a) of this subsection, the de-
19 partment shall analyze samples from persons convicted of a felony under ORS 475.840, 475.846 to
20 475.894, 475.904, 475.906 or 475.914.
- 21 (c) After analyzing samples from persons described in paragraphs (a) and (b) of this subsection,
22 the department shall analyze samples from persons convicted of any other felony.
- 23 (3) Notwithstanding subsection (2) of this section, the department may analyze a sample from a
24 lower priority before all samples in higher priorities are analyzed if required in a particular case
25 for law enforcement purposes.
- 26 (4) The department may not transfer or disclose any sample, physical evidence or criminal
27 identification information obtained, stored or maintained under authority of this section, ORS
28 137.076, 161.325 or 419C.473 (1) **or section 1 of this 2011 Act** except:
- 29 (a) To a law enforcement agency as defined in ORS 181.010, a district attorney or the Criminal
30 Justice Division of the Department of Justice for the purpose of establishing the identity of a person
31 in the course of a criminal investigation or proceeding;
- 32 (b) To a party in a criminal prosecution or juvenile proceeding pursuant to ORS 419C.005 if
33 discovery or disclosure is required by a separate statutory or constitutional provision; or
- 34 (c) To a court or grand jury in response to a lawful subpoena or court order when the evidence
35 is not otherwise privileged and is necessary for criminal justice purposes.
- 36 (5) The department may not transfer or disclose any sample, physical evidence or criminal
37 identification information under subsection (4) of this section unless the public agency or person
38 receiving the sample, physical evidence or criminal identification information agrees to destroy the
39 sample, physical evidence or criminal identification information if notified by the department that
40 *[a court has reversed the conviction, judgment or order that created the obligation to provide the blood*
41 *or buccal sample]* **the authority to retain the sample has been rescinded.**
- 42 (6) Any public agency that receives a sample, physical evidence or criminal identification in-
43 formation under authority of subsection (4) of this section may not disclose it except as provided in
44 subsection (4) of this section.
- 45 (7) Notwithstanding subsections (4) and (6) of this section, any person who is the subject of a

1 record within a criminal identification database maintained under the authority of this section may,
 2 upon request, inspect that information at a time and location designated by the department. The
 3 department may deny inspection if it determines that there is a reasonable likelihood that such in-
 4 spection would prejudice a pending criminal investigation. In any case, the department is not re-
 5 quired to allow the person or anyone acting on the person's behalf to test any blood or buccal
 6 sample or other physical evidence. The department shall adopt procedures governing the inspection
 7 of records and samples and challenges to the accuracy of records. The procedures shall accommo-
 8 date the need to preserve the materials from contamination and destruction.

9 **(8)(a) A person who provided a blood or buccal sample may request destruction of the**
 10 **sample and any criminal identification record created in connection with that sample** when-
 11 ever:

12 **(A)** A court reverses the conviction, judgment or order that created an obligation to provide a
 13 blood or buccal sample under ORS 137.076 (2), 161.325 or 419C.473 (1)[, *the person who provided the*
 14 *sample may request destruction of the sample and any criminal identification record created in con-*
 15 *nection with that sample.*];

16 **(B)** The arrest that created the obligation to provide a blood or buccal sample under
 17 section 1 of this 2011 Act leads to a judgment of acquittal, an order of dismissal or a con-
 18 viction that is subsequently reversed; or

19 **(C)** A prosecution is not commenced within the statute of limitations for the crime of
 20 arrest that created an obligation to provide a blood or buccal sample under section 1 of this
 21 2011 Act. If this subparagraph applies, the district attorney shall provide to the department
 22 a sworn affidavit within 90 days of the expiration of the statute of limitations indicating that
 23 the authority to retain the sample has been rescinded.

24 (b) Upon receipt of a written request for destruction pursuant to this section and a certified
 25 copy of [*the*] a court order [*reversing the conviction, judgment or order,*] **or a sworn affidavit de-**
 26 **scribed in paragraph (a) of this subsection**, the department shall destroy any sample received
 27 from the person, any physical evidence obtained from that sample and any criminal identification
 28 records pertaining to the person, unless the department determines that the person has otherwise
 29 become obligated to submit a blood or buccal sample as a result of a separate conviction, juvenile
 30 adjudication or finding of guilty except for insanity for an offense listed in ORS 137.076 (1) **or an**
 31 **arrest for a crime listed in section 1 (1) of this 2011 Act**. When the department destroys a sam-
 32 ple, physical evidence or criminal identification record under this paragraph, the department shall
 33 notify any public agency or person to whom the sample, physical evidence or criminal identification
 34 information was transferred or disclosed under subsection (4) of this section [*of the reversal of the*
 35 *conviction, judgment or order*] **that the authority to retain the sample has been rescinded.**

36 (c) The department is not required to destroy an item of physical evidence obtained from a blood
 37 or buccal sample if evidence relating to another person subject to the provisions of **this section**,
 38 ORS 137.076, 161.325, 419A.260 and 419C.473 (1) and [*this section*] **section 1 of this 2011 Act** would
 39 thereby be destroyed. Notwithstanding this subsection, no sample, physical evidence or criminal
 40 identification record is affected by an order to set aside a conviction under ORS 137.225.

41 (9) As used in this section, "convicted" includes a juvenile court finding of jurisdiction based
 42 on ORS 419C.005.

43 **SECTION 4.** ORS 137.076 is amended to read:

44 137.076. (1) This section applies to any person convicted of:

45 (a) A felony;

1 (b) Sexual abuse in the third degree or public indecency;

2 (c) Conspiracy or attempt to commit rape in the third degree, sodomy in the third degree, sexual
3 abuse in the second degree, burglary in the second degree or promoting prostitution; or

4 (d) Murder or aggravated murder.

5 (2) When a person is convicted of an offense listed in subsection (1) of this section:

6 (a) The person shall, whether or not ordered to do so by the court under paragraph (b) of this
7 subsection, provide a blood or buccal sample at the request of the appropriate agency designated in
8 paragraph (c) of this subsection.

9 (b) The court shall include in the judgment of conviction an order stating that a blood or buccal
10 sample is required to be obtained at the request of the appropriate agency and, unless the convicted
11 person lacks the ability to pay, that the person shall reimburse the appropriate agency for the cost
12 of obtaining and transmitting the blood or buccal sample. If the judgment sentences the convicted
13 person to probation, the court shall order the convicted person to submit to the obtaining of a blood
14 or buccal sample as a condition of the probation.

15 (c) The appropriate agency shall cause a blood or buccal sample to be obtained and transmitted
16 to the Department of State Police. The agency shall cause the sample to be obtained as soon as
17 practicable after conviction. The agency shall obtain the convicted person's thumbprint at the same
18 time the agency obtains the blood or buccal sample. The agency shall include the thumbprint with
19 the identifying information that accompanies the sample. Whenever an agency is notified by the
20 Department of State Police that a sample is not adequate for analysis, the agency shall obtain and
21 transmit a blood sample. The appropriate agency shall be:

22 (A) The Department of Corrections, whenever the convicted person is committed to the legal
23 and physical custody of the department.

24 (B) In all other cases, the law enforcement agency attending upon the court.

25 (3)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed pro-
26 fessional nurse, a licensed practical nurse, a qualified medical technician, a licensed physician or a
27 person acting under the direction or control of a licensed physician.

28 (b) A buccal sample may be obtained by anyone authorized to do so by the appropriate agency.
29 The person obtaining the buccal sample shall follow the collection procedures established by the
30 Department of State Police.

31 (c) A person authorized by this subsection to obtain a blood or buccal sample shall not be held
32 civilly liable for obtaining a sample in accordance with this subsection and subsection (2) of this
33 section, ORS 161.325 and 419C.473. The sample shall also be obtained and transmitted in accordance
34 with any procedures that may be established by the Department of State Police. However, no test
35 result or opinion based upon a test result shall be rendered inadmissible as evidence solely because
36 of deviations from procedures adopted by the Department of State Police that do not affect the re-
37 liability of the opinion or test result.

38 (4) No sample is required to be obtained if:

39 (a) The Department of State Police notifies the court or the appropriate agency that it has
40 previously received an adequate blood or buccal sample obtained from the convicted person in ac-
41 cordance with this section or ORS 161.325 or 419C.473 **or section 1 of this 2011 Act**; or

42 (b) The court determines that obtaining a sample would create a substantial and unreasonable
43 risk to the health of the convicted person.

44 (5) The provisions of subsections (1) to (4) of this section apply to any person who, on or after
45 September 29, 1991, is serving a term of incarceration as a sentence or as a condition of probation

1 imposed for conviction of an offense listed in subsection (1) of this section, and any such person shall
 2 submit to the obtaining of a blood or buccal sample. Before releasing any such person from
 3 incarceration, the supervisory authority shall cause a blood or buccal sample and the person's
 4 thumbprint to be obtained and transmitted in accordance with subsections (1) to (4) of this section.

5 **SECTION 5.** ORS 137.290 is amended to read:

6 137.290. (1) In all cases of conviction for the commission of a crime or violation, excluding
 7 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
 8 the defendant, in addition to any other monetary obligation imposed, a unitary assessment under this
 9 section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the
 10 unitary assessment shall also be imposed by the circuit court and county court in juvenile cases
 11 under ORS 419C.005 (1). The unitary assessment is a penal obligation in the nature of a fine and
 12 shall be in an amount as follows:

13 (a) [~~\$107~~] **\$112** in the case of a felony.

14 (b) [~~\$67~~] **\$72** in the case of a misdemeanor.

15 (c) [~~\$97~~] **\$102** in the case of a conviction for driving under the influence of intoxicants.

16 (d) [~~\$37~~] **\$42** in the case of a violation as described in ORS 153.008.

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

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

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

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

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

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

26 (d) \$1,000 if the crime of conviction is a violation of ORS 475.886 or 475.888.

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

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

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

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

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

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

42 **SECTION 6.** ORS 419A.260 is amended to read:

43 419A.260. (1) As used in this section and ORS 419A.262:

44 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-
 45 ior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to

1 (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this sub-
2 section.

3 (b) "Expunction" means:

4 (A) The removal and destruction or sealing of a judgment or order related to a contact and all
5 records and references; and

6 (B) Where a record is kept by the Department of Human Services or the Oregon Youth Au-
7 thority, either the sealing of such record by the department or the Oregon Youth Authority or, in
8 a multiperson file, the affixing to the front of the file, by the department or the youth authority, a
9 stamp or statement identifying the name of the individual, the date of expunction and instruction
10 that no further reference shall be made to the material that is subject to the expunction order ex-
11 cept upon an order of a court of competent jurisdiction.

12 (c) "Person" includes a person under 18 years of age.

13 (d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which
14 contains information relating to a person's contact with any law enforcement agency or juvenile
15 court or juvenile department and is kept manually, through the use of electronic data processing
16 equipment, or by any other means by a law enforcement or public investigative agency, a juvenile
17 court or juvenile department or an agency of the State of Oregon. "Record" does not include:

18 (A) A transcript of a student's Youth Corrections Education Program academic record;

19 (B) Material on file with a public agency which is necessary for obtaining federal financial
20 participation regarding financial assistance or services on behalf of a person who has had a contact;

21 (C) Records kept or disseminated by the Department of Transportation, State Marine Board and
22 State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

23 (D) Police and court records related to an order of waiver where the matter is still pending in
24 the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

25 (E) Records related to a support obligation;

26 (F) Medical records;

27 (G) Records of a proposed or adjudicated termination of parental rights and adoptions;

28 (H) Any law enforcement record of a person who currently does not qualify for expunction or
29 of current investigations or cases waived to the adult court;

30 (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

31 (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be
32 within the jurisdiction of the court based upon the person's commission of an act which if done by
33 an adult would constitute one of the following offenses:

34 (i) Aggravated murder under ORS 163.095;

35 (ii) Murder under ORS 163.115;

36 (iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;

37 (iv) Manslaughter in the first degree under ORS 163.118;

38 (v) Manslaughter in the second degree under ORS 163.125;

39 (vi) Criminally negligent homicide under ORS 163.145;

40 (vii) Assault in the first degree under ORS 163.185;

41 (viii) Criminal mistreatment in the first degree under ORS 163.205;

42 (ix) Kidnapping in the first degree under ORS 163.235;

43 (x) Rape in the third degree under ORS 163.355;

44 (xi) Rape in the second degree under ORS 163.365;

45 (xii) Rape in the first degree under ORS 163.375;

- 1 (xiii) Sodomy in the third degree under ORS 163.385;
 2 (xiv) Sodomy in the second degree under ORS 163.395;
 3 (xv) Sodomy in the first degree under ORS 163.405;
 4 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;
 5 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;
 6 (xviii) Sexual abuse in the third degree under ORS 163.415;
 7 (xix) Sexual abuse in the second degree under ORS 163.425;
 8 (xx) Sexual abuse in the first degree under ORS 163.427;
 9 (xxi) Promoting prostitution under ORS 167.012;
 10 (xxii) Compelling prostitution under ORS 167.017;
 11 (xxiii) Aggravated driving while suspended or revoked under ORS 163.196;
 12 (xxiv) Aggravated vehicular homicide under ORS 163.149; or
 13 (xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the
 14 second degree and criminally negligent homicide;
- 15 (K) Blood samples, buccal samples and other physical evidence and identification information
 16 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,
 17 181.085 or 419C.473 **or section 1 of this 2011 Act**; or
- 18 (L) Records maintained in the Law Enforcement Data System under ORS 181.592.
- 19 (e) "Termination" means:
- 20 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,
 21 the final disposition of a case by informal means, by a decision not to place the person on probation
 22 or make the person a ward of the court after the person has been found to be within the court's
 23 jurisdiction, or by a discontinuance of probation or of the court's wardship.
- 24 (B) For a person who is the subject of a record kept by a law enforcement or public investi-
 25 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final
 26 disposition of the person's most recent contact with a law enforcement agency.
- 27 (2) The juvenile court or juvenile department shall make reasonable effort to provide written
 28 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or
 29 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's
 30 parent, of the procedures for expunction of a record, the right to counsel under this chapter, the
 31 legal effect of an expunction order and the procedures for seeking relief from the duty to report as
 32 a sex offender provided under ORS 181.823, at the following times:
- 33 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-
 34 ment;
- 35 (b) At the time of termination;
- 36 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile
 37 department or motion on a juvenile court; and
- 38 (d) At the time of notice of execution of an expunction order.
- 39 **SECTION 7.** ORS 419C.473 is amended to read:
- 40 419C.473. (1) Whenever a youth offender has been found to be within the jurisdiction of the court
 41 under ORS 419C.005 for having committed an act that if done by an adult would constitute a felony
 42 listed in subsection (2) of this section, the court shall order the youth offender to submit to the ob-
 43 taining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall further
 44 order that as soon as practicable after the entry of the dispositional order, the law enforcement
 45 agency attending upon the court shall cause a blood or buccal sample to be obtained and transmit-

1 ted in accordance with ORS 137.076. The court may also order the youth offender to reimburse the
 2 appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.

3 (2) The felonies to which subsection (1) of this section applies are:

4 (a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public
 5 indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are
 6 defined in ORS 163.355 to 163.427, 163.465 (1)(c), 163.525 and 163.670;

7 (b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to
 8 commit any offense listed in paragraph (a) of this subsection;

9 (c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;

10 (d) Burglary in the first degree, as defined in ORS 164.225;

11 (e) Assault in the first degree, as defined in ORS 163.185;

12 (f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to
 13 (e) of this subsection; or

14 (g) Murder or aggravated murder.

15 (3) No order for the obtaining and transmitting of a blood or buccal sample is required to be
 16 entered if:

17 (a) The Department of State Police notifies the court or the law enforcement agency attending
 18 upon the court that it has previously received an adequate blood or buccal sample taken from the
 19 youth offender in accordance with this section, ORS 137.076 or 161.325 (4) **or section 1 of this 2011**
 20 **Act**; or

21 (b) The court determines that obtaining a sample would create a substantial and unreasonable
 22 risk to the health of the youth offender.

23 (4) Notwithstanding any other provision of law, blood and buccal samples and other physical
 24 evidence and criminal identification information obtained under authority of this section or as a
 25 result of analysis conducted pursuant to ORS 181.085 may be maintained, stored, destroyed and re-
 26 leased to authorized persons or agencies under the conditions established in ORS 181.085 and rules
 27 adopted by the Department of State Police under the authority of that section.

28 **SECTION 8.** ORS 137.300 is amended to read:

29 137.300. (1) The Criminal Fine and Assessment Account is established in the General Fund of
 30 the State Treasury. All moneys in the account are continuously appropriated to the Department of
 31 Revenue to be distributed by the Department of Revenue according to allocations made by the
 32 Legislative Assembly. The Department of Revenue shall keep a record of moneys transferred into
 33 and out of the account. The Department of Revenue shall report monthly to the Attorney General
 34 the amount of moneys received from the state courts in each county and from each city court.

35 (2) The Legislative Assembly shall allocate moneys in the account according to the following
 36 priority:

37 (a) Public safety standards, training and facilities;

38 (b) Criminal injuries compensation and assistance to victims of crime and children reasonably
 39 suspected of being victims of crime;

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

42 (d) Maintenance and operation of the Law Enforcement Data System; **and**

43 (e) **DNA collection and testing described in section 1 of this 2011 Act.**

44 (3) Moneys in the account may not be allocated for:

45 (a) The payment of debt service obligations; or

1 (b) Any purpose other than those listed in subsection (2) of this section.

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

4 (5) The Department of Revenue shall establish by rule a process for distributing moneys in the
5 account.

6 (6) The Department of Justice shall report monthly to the Department of Revenue the amount
7 of moneys ordered to be applied to child support under ORS 135.280.

8 **SECTION 9. Section 1 of this 2011 Act and the amendments to ORS 137.076, 137.290,**
9 **137.300, 181.085, 181.511, 419A.260 and 419C.473 by sections 2 to 7 of this 2011 Act apply to**
10 **conduct occurring on or after the effective date of this 2011 Act.**

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