

A-Engrossed
House Bill 4025

Ordered by the House February 10
Including House Amendments dated February 10

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House 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.

Reduces amount payable by municipal or justice court for deposit in Criminal Fine Account from \$60 to \$45. Exempts certain offenses from required payment.

Modifies priority of distribution for partial payments of fines. Provides that amounts owing to city or county have same priority as amounts owing to state.

Makes other changes to laws governing offenses.

Stipulates distribution of amounts collected under judgment of conviction for violation of Tri-Met ordinances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to offenses; creating new provisions; amending ORS 137.017, 137.289, 137.292, 137.296, 137.297, 153.030, 153.633 and 153.800; repealing ORS 137.294; and declaring an emergency.

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

**AMOUNT PAYABLE BY MUNICIPAL OR JUSTICE COURT
FOR DEPOSIT IN CRIMINAL FINE ACCOUNT**

SECTION 1. ORS 153.633 is amended to read:

153.633. (1) In any criminal action in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

(a) [~~\$60~~] **\$45**; or

(b) The amount of the fine if the fine is less than [~~\$60~~] **\$45**.

(2) A justice or municipal court shall forward the amount prescribed under subsection (1) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

(3) The provisions of this section do not apply to fines imposed under ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).

SECTION 2. (1) **ORS 153.633 applies only to offenses that are committed on or after January 1, 2012.**

(2) The repeal of ORS 137.290 by section 118, chapter 597, Oregon Laws 2011, applies only to offenses committed on or after January 1, 2012. Any offense committed before January 1, 2012, shall continue to be governed by ORS 137.290 as in effect immediately before January 1, 2012, and all amounts collected as a unitary assessment for offenses committed before January 1, 2012, shall be deposited in the Criminal Fine Account.

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 **(3) The amendments to ORS 153.633 by section 1 of this 2012 Act apply only to offenses**
2 **committed on or after the effective date of this 2012 Act.**

3 **SECTION 3.** ORS 137.017 is amended to read:

4 137.017. Except as otherwise specifically provided by law, all fines, costs, security deposits and
5 other amounts ordered or required to be paid in criminal actions **in circuit courts** are monetary
6 obligations payable to the state and shall be deposited in the Criminal Fine Account.

7 **SECTION 4.** ORS 153.030 is amended to read:

8 153.030. (1) The procedures provided for in this chapter apply to violations described in ORS
9 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state
10 applicable to crimes also apply to violations.

11 (2) Notwithstanding subsection (1) of this section, *[the]* **ORS 153.633 and all other** provisions
12 of this chapter and of the criminal procedure laws of this state do not apply to violations that gov-
13 ern the parking of vehicles and that are created by ordinance or by agency rule.

14 (3) The statute of limitations for proceedings under this chapter is as provided in ORS 131.125.

15 (4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the
16 activities described in ORS 3.136 (3). Nothing in this chapter affects the ability of any other political
17 subdivision of this state to provide for the administrative enforcement of the charter, ordinances,
18 rules and regulations of the political subdivision, including enforcement through imposition of mon-
19 etary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement
20 as described in this subsection may not be used for any prohibition designated as an offense.

21 (5) Nothing in this chapter affects the ability of any political subdivision of this state to estab-
22 lish rules relating to administrative enforcement as described in subsection (4) of this section, in-
23 cluding rules providing for the use of citations or other procedures for initiating administrative
24 enforcement proceedings.

25 (6) Nothing in this chapter affects the ability of any political subdivision of this state to conduct
26 hearings for administrative enforcement as described in subsection (4) of this section, either before
27 a hearing officer or before the governing body of the political subdivision.

28 (7) Nothing in this chapter affects the ability of any political subdivision to bring a civil action
29 to enforce the charter, ordinances, rules and regulations of the political subdivision, or to bring a
30 civil action to enforce any order for administrative enforcement as described in subsection (4) of this
31 section.

32 (8) Nothing in ORS 153.042 affects the authority of any political subdivision of this state to
33 provide for issuance of citations for violation of offenses created by ordinance on the same basis as
34 the political subdivision could under the law in effect immediately before January 1, 2000.

35
36 **PRIORITY OF DISTRIBUTION OF PARTIAL PAYMENTS**

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38 **SECTION 5.** ORS 137.289 is amended to read:

39 137.289. (1) There are *[five]* **four** levels of priority for application of payments on judgments of
40 conviction in criminal actions, with Level I obligations having the highest priority and Level [V]
41 **IV** having the lowest priority. All payments on a judgment of conviction in a criminal action shall
42 be applied first against the unpaid obligations in the level with highest priority until those obli-
43 gations have been paid in full, and shall then be applied against the obligations in the level with the
44 next highest level of priority, until all obligations under the judgment have been paid in full.

45 (2) Except as provided in ORS 137.292, if there is more than one person or public body to whom

1 an obligation is payable under a level, the court shall divide each payment based on each person's
2 or public body's proportionate share of the total amount of obligations in that level.

3 **SECTION 6.** ORS 137.292 is amended to read:

4 137.292. (1) There are two types of Level II obligations:

5 (a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of
6 restitution under ORS 419C.450 and money awards made under ORS 811.706.

7 (b) Type 2 obligations include all fines and other monetary obligations payable to the state [*for*
8 *which the law does not expressly provide other disposition, including fines payable to the state by*
9 *justice and municipal courts under ORS 153.633, 153.645 and 153.650*], **a city or a county.**

10 (2) If a judgment contains both types of Level II obligations, the court shall apply 50 percent
11 of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the amounts
12 to Type 2 obligations, until all obligations in one of the two types have been paid in full. All sub-
13 sequent amounts creditable to Level II obligations shall be applied against the other type of obli-
14 gations until those obligations have been paid in full.

15 (3) If there is more than one person for whose benefit a Type 1 money award has been made,
16 the clerk shall pay the moneys credited to Type 1 obligations in the following order of priority:

17 (a) If the judgment contains a money award payable to the person or persons against whom the
18 defendant committed the offense, the clerk shall first pay all moneys credited to Type 1 obligations
19 to those persons, and shall continue to do so until all those obligations are paid in full. If there is
20 more than one person to whom an obligation is payable under this paragraph, the court shall divide
21 each payment under this paragraph based on each person's proportionate share of the total amount
22 of obligations subject to payment under this paragraph.

23 (b) If the judgment contains a money award payable to the Criminal Injuries Compensation Ac-
24 count, the clerk shall thereafter transfer moneys credited to Type 1 obligations to the account until
25 the award is paid in full.

26 (c) If the judgment contains a money award payable to any other victims, as defined in ORS
27 137.103, the clerk shall thereafter pay the moneys credited to Type 1 obligations to those victims
28 until those victims are paid in full.

29 **SECTION 7.** ORS 137.296 is amended to read:

30 137.296. Level [IV] **III** obligations are amounts that the law expressly directs be paid to a spe-
31 cific account or public body as defined in ORS 174.109.

32 **SECTION 8.** ORS 137.297 is amended to read:

33 137.297. Level [V] **IV** obligations are amounts payable for reward reimbursement under ORS
34 131.897.

35 **SECTION 9. ORS 137.294 is repealed.**

36 **SECTION 10. The amendments to ORS 137.289, 137.292, 137.296 and 137.297 by sections 5**
37 **to 8 of this 2012 Act and the repeal of ORS 137.294 by section 9 of this 2012 Act apply to all**
38 **offenses committed on or after January 1, 2012.**

39
40 **VIOLATION BUREAUS**

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42 **SECTION 11.** ORS 153.800 is amended to read:

43 153.800. (1) Any court of this state may establish a Violations Bureau and designate the clerk
44 or deputy clerk of the court or any other appropriate person to act as a violations clerk for the
45 Violations Bureau. The violations clerk shall serve under the direction and control of the court

1 appointing the clerk.

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

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

6 (a) Written appearance, waiver of trial, plea of [*guilty*] **no contest** and payment of fine, costs
7 and assessments for violations that are subject to the authority of the violations clerk; or

8 (b) Payment of presumptive fine amounts for violations that are subject to the authority of the
9 violations clerk.

10 (4)(a) Courts other than circuit courts shall establish schedules, within the limits prescribed by
11 law, of the amounts of penalties to be imposed for first, second and subsequent violations, desig-
12 nating each violation specifically or by class. The order of the court establishing the schedules shall
13 be prominently posted in the place where penalties established under the schedule are paid.

14 (b) The Chief Justice of the Supreme Court shall establish a uniform fine schedule for violations
15 prosecuted in circuit courts.

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

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

19 (a) Upon signing an appearance, plea of [*guilty*] **no contest** and waiver of trial, pay the clerk
20 the penalty established for the violation charged, including any costs and assessments authorized
21 by law.

22 (b) Pay the clerk the presumptive fine amount established for the violation. Payment of the
23 presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive
24 fine amount and disposition of the violation by the clerk as provided by the rules of the court.
25 Payment of presumptive fine amount under this paragraph is not consent to forfeiture of the
26 presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for
27 hearing.

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

32
33 **VIOLATION OF TRI-MET ORDINANCES**

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35 **SECTION 12. Section 13 of this 2012 Act is added to and made a part of ORS chapter 153.**

36 **SECTION 13. If a court enters a judgment of conviction for the violation of an ordinance**
37 **enacted by the district board of a mass transit district under ORS 267.150, amounts collected**
38 **under the judgment are payable as follows:**

39 (1) **The amount prescribed by ORS 153.633 (1) is payable to the state and must be for-**
40 **warded to the Department of Revenue for deposit in the Criminal Fine Account;**

41 (2) **An additional \$45 is payable to the state and must be forwarded by the court to the**
42 **Department of Revenue for deposit in the Criminal Fine Account; and**

43 (3) **The amount remaining after the payments required by subsections (1) and (2) of this**
44 **section is payable to the mass transit district that enacted the ordinance.**

45 **SECTION 14. (1) Section 13 of this 2012 Act applies to all violations of ordinances enacted**

1 by the district board of a mass transit district that occur on or after January 1, 2012.

2 (2) Notwithstanding ORS 137.300, there is allocated \$_____ to the Tri-County Metro-
3 politan Transportation District of Oregon, from the Criminal Fine Account, for the purpose
4 of reimbursing the district for amounts that were collected in circuit courts between Janu-
5 ary 1, 2012, and the effective date of this 2012 Act for violations of ordinances and that were
6 not distributed as provided under section 13 of this 2012 Act.

7
8 **CAPTIONS**

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10 **SECTION 15.** The unit captions used in this 2012 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2012 Act.

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14 **EMERGENCY CLAUSE**

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16 **SECTION 16.** This 2012 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
18 on its passage.

19 _____