

A-Engrossed
Senate Bill 391

Ordered by the Senate April 7
Including Senate Amendments dated April 7

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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.

Prohibits seizure of property deposited to obtain security release in criminal case by law enforcement agency without search warrant or court order. Prohibits transfer or distribution of property after seizure without court order.

Requires clerk of court to continue to accept security release deposits when magistrate has designated other person to take security release deposits.

A BILL FOR AN ACT

1
2 Relating to security release deposits; creating new provisions; and amending ORS 135.270.

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

4 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 135.230 to**
5 **135.290.**

6 **SECTION 2. (1) A law enforcement agency may not seize any cash, cashier's checks,**
7 **money orders, credit cards, stocks, bonds or real or personal property that a person deposits,**
8 **or attempts to deposit, with the clerk of the court, or a person designated by a magistrate**
9 **to take security under ORS 135.270, in order to obtain security release as described in ORS**
10 **135.265 unless the law enforcement agency first obtains:**

11 (a) A search warrant issued pursuant to ORS 133.545 authorizing seizure of the cash,
12 cashier's checks, money orders, credit cards, stocks, bonds or real or personal property as
13 items subject to search and seizure as described in ORS 133.535; or

14 (b) A court order under ORS 131A.060 directing seizure of the cash, cashier's checks,
15 money orders, credit cards, stocks, bonds or real or personal property as property subject
16 to forfeiture under ORS 131A.020.

17 (2) After seizing cash, cashier's checks, money orders, credit cards, stocks, bonds or real
18 or personal property under subsection (1) of this section, a law enforcement agency may not
19 further transfer or distribute the cash, cashier's checks, money orders, credit cards, stocks,
20 bonds or real or personal property to any person or entity without a court order specifically
21 authorizing the transfer or distribution.

22 (3) As used in this section, "law enforcement agency" has the meaning given that term
23 in ORS 131A.005.

24 **SECTION 3. ORS 135.270 is amended to read:**

25 135.270. (1) When a security amount has been set by a magistrate for a particular offense or for

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 a defendant's release, any person designated by the magistrate may take the security and release
2 the defendant to appear in accordance with the conditions of the release agreement. The person
3 designated by the magistrate shall give a receipt to the defendant for the security so taken and
4 within a reasonable time deposit the security with the clerk of the court having jurisdiction of the
5 offense.

6 **(2) If a magistrate has designated a person to take security and release defendants under**
7 **subsection (1) of this section, the clerk of the court shall continue to accept the security**
8 **release deposits described in ORS 135.265 during the normal business hours of the court.**

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