

Enrolled House Bill 4056

Sponsored by Representatives OLSON, WITT, Senator BENTZ, Representative SALINAS, Senator PROZANSKI; Representatives BARKER, BARRETO, BOLES, BOONE, BUEHLER, ESQUIVEL, GORSEK, HAYDEN, HELFRICH, KENNEMER, LEWIS, MCLANE, NEARMAN, NOBLE, PILUSO, RESCHKE, SANCHEZ, SMITH DB, SPRENGER, VIAL, WHISNANT, WILLIAMSON, WILSON, Senators BAERTSCHIGER JR, BEYER, BOQUIST, BURDICK, FREDERICK, HANSELL, MANNING JR, ROBLAN, WAGNER (Presession filed.)

CHAPTER

AN ACT

Relating to civil forfeiture proceeds; creating new provisions; amending ORS 131A.360, 131A.365, 178.320 and 348.270; and declaring an emergency.

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

SECTION 1. ORS 131A.360 is amended to read:

131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).

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

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

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

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

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

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for [disbursement to drug court programs as described in ORS 3.450] **support for specialty courts as defined in ORS 137.680; [and]**

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning Division Fund established [in] **under** ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786[.]; **and**

(e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Oregon 529 College Savings Plan Subaccount established under ORS 178.320 for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.

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

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

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

(b) Currency for undercover law enforcement operations;

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

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

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

(f) Drug treatment and programs that support drug treatment; and

(g) A CASA Volunteer Program as defined in ORS 184.489.

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

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

SECTION 2. ORS 131A.365 is amended to read:

131A.365. (1) The provisions of this section apply only when the forfeiting agency is the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).

(2) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection. Any amount paid to or retained by the Department of Justice under this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this subsection shall be deposited in the State Police Account.

(3) After payment of costs under subsection (2) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established [by] **under** ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to three percent of the forfeiture proceeds, not to exceed \$50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for [disbursement to drug court programs as described in ORS 3.450] **support for specialty courts as defined in ORS 137.680; [and]**

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning Division Fund established [in] **under** ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786[.]; **and**

(e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Oregon 529 College Savings Plan Subaccount established under ORS 178.320 for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.

(4) If the forfeiting agency has entered into an intergovernmental agreement with another public body under ORS 131A.355, or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(5) After making all payments and deductions required by subsections (2), (3) and (4) of this section, the forfeiting agency shall distribute the remaining forfeiture proceeds as follows:

(a) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining forfeiture proceeds, and forfeiture proceeds received by the Department of Justice under subsection (4) of this section, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.

(B) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(b) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under subsection (4) of this section, shall be divided between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police Account.

(B) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(6) Forfeiture proceeds distributed under subsection (5) of this section may be used only for:

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

(b) Currency for undercover law enforcement operations;

- (c) Drug awareness and drug education programs offered in middle schools and high schools; and
- (d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.

(7) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (3) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 3. ORS 178.320 is amended to read:

178.320. (1) The Oregon 529 Savings Network Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon 529 Savings Network Fund shall consist of the Oregon 529 College Savings Plan Subaccount and the Oregon 529 ABLE Subaccount. Interest earned by each subaccount shall be credited to the subaccount.

(2)(a) All moneys credited to the Oregon 529 College Savings Plan Subaccount are continuously appropriated to the Oregon 529 Savings Board for the purpose of administering accounts established for qualified higher education expenses under ORS 178.300 to 178.355.

(b) All moneys credited to the Oregon 529 ABLE Subaccount are continuously appropriated to the board for the purpose of administering a qualified ABLE program pursuant to ORS 178.380.

(3) Each subaccount in the Oregon 529 Savings Network Fund shall consist of:

- (a) Moneys appropriated to the subaccount by the Legislative Assembly;
- (b) Moneys transferred to the subaccount from the federal government, other state agencies or local governments;
- (c) Moneys from the payment of fees and the payment of other moneys due the board;
- (d) Any gifts or donations made to the State of Oregon for deposit in the subaccount; and
- (e) Earnings on moneys in the subaccount.

(4)(a) The board may use the moneys in the Oregon 529 College Savings Plan Subaccount to pay the administrative costs and expenses of the board and the Oregon 529 Savings Network related to the administration of accounts established for qualified higher education expenses under ORS 178.300 to 178.355, to provide or make available scholarships, grants and other incentives to account owners, potential account owners and their designated beneficiaries, **to pay for scholarships awarded under ORS 348.270** or to further any other purpose of ORS 178.300 to 178.355.

(b) The board may use the moneys in the Oregon 529 ABLE Subaccount to pay the administrative costs and expenses of the board and the Oregon 529 Savings Network related to the administration of the qualified ABLE program established under ORS 178.380, to provide or make available incentives to owners of ABLE accounts or potential account owners and their designated beneficiaries or to further any other purpose of the qualified ABLE program established under ORS 178.380.

SECTION 4. ORS 348.270 is amended to read:

348.270. [(1) *In addition to any other scholarships provided by law, the Higher Education Coordinating Commission shall award scholarships to any individual applying for enrollment or enrolled in an institution of higher education who is the natural child, adopted child or stepchild of any public safety officer, reserve officer or volunteer firefighter who, in the line of duty, was killed or so disabled, as determined by the Director of the Office of Student Access and Completion, that:*]

[(a) *The income of the public safety officer is less than that earned by public safety officers performing duties comparable to those performed at the highest rank or grade attained by the public safety officer; or*]

[(b) *The income of the reserve officer or volunteer firefighter working in their primary profession or type of employment is less than that earned by individuals in the same profession or type of employment with similar levels of education and experience.*]

[(2) *Except as provided in this subsection, scholarships awarded under this section shall be in an amount equal to the amount of tuition and all fees levied by the institution of higher education against the recipient of the scholarship. Scholarships awarded to students who attend independent institutions may not exceed the amount of tuition and all fees levied by the University of Oregon.*]

[(3) If a student who is the dependent of a deceased public safety officer, reserve officer or volunteer firefighter continues to remain enrolled in a public university listed in ORS 352.002, a community college or an Oregon-based, regionally accredited independent institution, the student is entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education and four years of post-graduate education.]

[(4) If a student who is the dependent of a public safety officer, reserve officer or volunteer firefighter with a disability continues to remain enrolled in a public university listed in ORS 352.002, a community college or an Oregon-based, regionally accredited independent institution, the student is entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education.]

[(5) The Director of the Office of Student Access and Completion may require proof of a student's relationship to a public safety officer, reserve officer or volunteer firefighter described in subsection (1) of this section.]

[(6) As used in this section:]

[(a) "Institution of higher education" means a public university listed in ORS 352.002, the Oregon Health and Science University, a community college operated under ORS chapter 341 or an Oregon-based, regionally accredited independent institution.]

[(b) "Public safety officer" means:]

[(A) A firefighter or police officer as those terms are defined in ORS 237.610.]

[(B) A member of the Oregon State Police.]

[(C) A police officer commissioned by a university under ORS 352.121 or 353.125.]

[(D) An authorized tribal police officer as defined in ORS 181A.680.]

[(c) "Reserve officer" has the meaning given that term in ORS 133.005.]

[(d) "Volunteer firefighter" has the meaning given that term in ORS 652.050.]

(1) In addition to any other scholarships provided by law, the Higher Education Coordinating Commission shall award scholarships to any qualified student who is a child of a public safety officer who has suffered a qualifying death or disability.

(2) A student who wishes to receive a scholarship under this section shall submit an application in accordance with rules adopted by the commission.

(3)(a) To be eligible to receive a scholarship under this section, a student must:

(A) Be a child of a public safety officer who has suffered a qualifying death or disability;

(B) Be enrolled or have applied for enrollment at an institution of higher education in this state;

(C) Be under 25 years of age at the time that the student first submits an application under subsection (2) of this section;

(D) Complete and submit the Free Application for Federal Student Aid for each academic year and accept all state and federal aid grants available to the person, if eligible to file the application; and

(E) Not have achieved a baccalaureate or higher degree from any post-secondary institution.

(b) A student who is awarded a scholarship under this section continues to be eligible for the scholarship if the student, in addition to satisfying the criteria specified in paragraph (a) of this subsection, makes satisfactory academic progress, as defined by the institution of higher education at which the student is enrolled.

(c) A student is eligible to receive a scholarship under this section for a maximum of the equivalent of four academic years.

(4)(a) Except as provided in paragraph (b) of this subsection, the total amount of a scholarship awarded under this section shall be equal to the amount of tuition and all fees levied by the institution of higher education against the student reduced by any amounts received by the student in state and federal aid grants.

(b) For a four-year degree program, the maximum amount of a scholarship awarded under this section is \$13,000 per academic year.

(5) As used in this section:

(a) "Child" means a person's natural child, adopted child or stepchild.

(b) "Institution of higher education" has the meaning given that term in ORS 348.582.

(c) "Permanent total disability" has the meaning given that term in ORS 656.206.

(d) "Public safety officer" means a corrections officer, fire service professional, parole and probation officer, police officer, reserve officer or youth correction officer, as those terms are defined in ORS 181A.355.

(e) "Qualifying death or disability" has the meaning given that term in ORS 243.954.

SECTION 5. No later than January 1, 2021, the Higher Education Coordinating Commission shall submit a report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, on the implementation and administration of the scholarship program established under ORS 348.270.

SECTION 6. The amendments to ORS 348.270 by section 4 of this 2018 Act become operative on July 1, 2018.

SECTION 7. (1) The amendments to ORS 348.270 by section 4 of this 2018 Act apply to applications for scholarships submitted on or after July 1, 2018.

(2) Applications for scholarships that are submitted before July 1, 2018, shall continue to be governed by the law applicable to those applications in effect immediately before that date.

SECTION 8. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Passed by House February 21, 2018

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 1, 2018

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2018

Approved:

.....M.,....., 2018

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2018

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Dennis Richardson, Secretary of State