

House Bill 2286

Sponsored by Representative WITT; Representative POWER (Presession filed.)

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**.

Places civil forfeiture proceeds used to fund scholarship for children of deceased or disabled public safety officers in account established or designated by State Treasurer in Oregon 529 Savings Network, rather than in Oregon 529 College Savings Plan Subaccount.

A BILL FOR AN ACT

1
2 Relating to investment of moneys used to fund scholarship program for children of public safety of-
3 ficers; creating new provisions; and amending ORS 131A.360, 131A.365 and 178.320.

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

5 **SECTION 1.** ORS 131A.360, as amended by section 1, chapter 23, Oregon Laws 2018, is amended
6 to read:

7 131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the
8 state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS
9 131A.005 (12)(a), (b) and (c).

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

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

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

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

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

26 (c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in
27 the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for
28 specialty courts as defined in ORS 137.680;

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

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) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in
 2 [the Oregon 529 College Savings Plan Subaccount established under ORS 178.320] **an account es-**
 3 **tablihed or designated by the State Treasurer in the higher education qualified tuition**
 4 **savings program of the Oregon 529 Savings Network** for disbursement to the scholarship pro-
 5 gram for children of public safety officers established under ORS 348.270.

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

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

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

16 (b) Currency for undercover law enforcement operations;

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

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

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

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

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

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

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

33 **SECTION 2.** ORS 131A.365, as amended by section 2, chapter 23, Oregon Laws 2018, is amended
 34 to read:

35 131A.365. (1) The provisions of this section apply only when the forfeiting agency is the state,
 36 and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005
 37 (12)(a), (b) and (c).

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

1 involving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police
 2 under this subsection shall be deposited in the State Police Account.

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

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

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

9 (c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in
 10 the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for
 11 specialty courts as defined in ORS 137.680;

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

15 (e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in
 16 [*the Oregon 529 College Savings Plan Subaccount established under ORS 178.320*] **an account es-**
 17 **ablished or designated by the State Treasurer in the higher education qualified tuition**
 18 **savings program of the Oregon 529 Savings Network** for disbursement to the scholarship pro-
 19 gram for children of public safety officers established under ORS 348.270.

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

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

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

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

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

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

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

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

43 (b) If no law enforcement agency other than the Department of State Police participated in the
 44 seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State
 45 Police under subsection (4) of this section, shall be divided between the State Police Account and

1 the Special Crime and Forfeiture Account according to the following schedule:

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

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

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

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

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

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

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

15 (b) Currency for undercover law enforcement operations;

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

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

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

24 **SECTION 3.** ORS 178.320, as amended by section 3, chapter 23, Oregon Laws 2018, is amended
25 to read:

26 178.320. (1) The Oregon 529 Savings Network Fund is established in the State Treasury, separate
27 and distinct from the General Fund. The Oregon 529 Savings Network Fund shall consist of the
28 Oregon 529 College Savings Plan Subaccount and the Oregon 529 ABLE Subaccount. Interest earned
29 by each subaccount shall be credited to the subaccount.

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

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

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

36 (a) Moneys appropriated to the subaccount by the Legislative Assembly;

37 (b) Moneys transferred to the subaccount from the federal government, other state agencies or
38 local governments;

39 (c) Moneys from the payment of fees and the payment of other moneys due the board;

40 (d) Any gifts or donations made to the State of Oregon for deposit in the subaccount; and

41 (e) Earnings on moneys in the subaccount.

42 (4)(a) The board may use the moneys in the Oregon 529 College Savings Plan Subaccount to pay
43 the administrative costs and expenses of the board and the Oregon 529 Savings Network related to
44 the administration of accounts established for qualified higher education expenses under ORS
45 178.300 to 178.355, to provide or make available scholarships, grants and other incentives to account

1 owners, potential account owners and their designated beneficiaries[, *to pay for scholarships*
2 *awarded under ORS 348.270*] or to further any other purpose of ORS 178.300 to 178.355.

3 (b) The board may use the moneys in the Oregon 529 ABLE Subaccount to pay the administra-
4 tive costs and expenses of the board and the Oregon 529 Savings Network related to the adminis-
5 tration of the qualified ABLE program established under ORS 178.380, to provide or make available
6 incentives to owners of ABLE accounts or potential account owners and their designated benefi-
7 aries or to further any other purpose of the qualified ABLE program established under ORS 178.380.

8 **SECTION 4. Notwithstanding the amendments to ORS 178.320 by section 3 of this 2019**
9 **Act, any moneys that were deposited in the Oregon 529 College Savings Plan Subaccount for**
10 **disbursement to the scholarship program for children of public safety officers established**
11 **under ORS 348.270 before the effective date of this 2019 Act shall be used to pay for schol-**
12 **arships awarded under ORS 348.270.**

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