

Senate Bill 874

Sponsored by Senator FAGAN (at the request of Chuck Tauman)

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**.

Modifies provisions for distribution of award of punitive damages.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to distribution of punitive damages; creating new provisions; amending ORS 31.735; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 31.735 is amended to read:

6 31.735. (1) Upon the entry of a verdict including an award of punitive damages, the Department
7 of Justice becomes a judgment creditor as to the amounts payable under [*paragraphs (b) and (c)*]
8 **paragraph (b)(C)** of this subsection, and the punitive damage portion of an award shall be
9 [*allocated*] **distributed** as follows:

10 [*(a) Thirty percent is payable to the prevailing party. The attorney for the prevailing party shall*
11 *be paid out of the amount allocated under this paragraph, in the amount agreed upon between the at-*
12 *torney and the prevailing party. However, in no event may more than 20 percent of the amount awarded*
13 *as punitive damages be paid to the attorney for the prevailing party.*]

14 [*(b) Sixty percent is payable to the Attorney General for deposit in the Criminal Injuries Compens-*
15 *ation Account of the Department of Justice Crime Victims' Assistance Section, and may be used only*
16 *for the purposes set forth in ORS chapter 147. However, if the prevailing party is a public entity, the*
17 *amount otherwise payable to the Criminal Injuries Compensation Account shall be paid to the general*
18 *fund of the public entity.*]

19 [*(c) Ten percent is payable to the Attorney General for deposit in the State Court Facilities and*
20 *Security Account established under ORS 1.178, and may be used only for the purposes specified in*
21 *ORS 1.178 (2)(d).*]

22 **(a) Any expenses of litigation incurred in the recovery of punitive damages shall paid**
23 **first.**

24 **(b) The remainder after paying expenses under paragraph (a) of this subsection shall be**
25 **distributed in equal amounts to:**

26 **(A) The prevailing party;**

27 **(B) The attorney for the prevailing party; and**

28 **(C) The Attorney General for deposit in the Criminal Injuries Compensation Account of**
29 **the Department of Justice Crime Victims' Assistance Section. Amounts paid to the Attorney**
30 **General under this subparagraph may be used only for the purposes set forth in ORS chapter**
31 **147. However, if the prevailing party is a public entity, the amount otherwise payable to the**

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 **Criminal Injuries Compensation Account shall be paid to the general fund of the public en-**
2 **tity.**

3 (2) The party preparing the proposed judgment shall assure that the judgment identifies the
4 judgment creditors specified in subsection (1) of this section.

5 (3) Upon the entry of a verdict including an award of punitive damages, the prevailing party
6 shall provide notice of the verdict to the Department of Justice. In addition, upon entry of a judg-
7 ment based on a verdict that includes an award of punitive damages, the prevailing party shall
8 provide notice of the judgment to the Department of Justice. The notices required under this sub-
9 section must be in writing and must be delivered to the Department of Justice Crime Victims' As-
10 sistance Section in Salem, Oregon within five days after the entry of the verdict or judgment.

11 (4) Whenever a judgment includes both compensatory and punitive damages, any payment on the
12 judgment by or on behalf of any defendant, whether voluntary or by execution or otherwise, shall
13 be applied first to compensatory damages, costs and court-awarded attorney fees awarded against
14 that defendant and then to punitive damages awarded against that defendant unless all affected
15 parties, including the Department of Justice, expressly agree otherwise, or unless that application
16 is contrary to the express terms of the judgment.

17 (5) Whenever any judgment creditor of a judgment which includes punitive damages governed
18 by this section receives any payment on the judgment by or on behalf of any defendant, the judgment
19 creditor receiving the payment shall notify the attorney for the other judgment creditors and all
20 sums collected shall be applied as required by subsections (1) and (4) of this section, unless all af-
21 fected parties, including the Department of Justice, expressly agree otherwise, or unless that appli-
22 cation is contrary to the express terms of the judgment.

23 **SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to**
24 **ORS 31.735 by section 1 of this 2019 Act apply to all causes of action, whether arising before,**
25 **on or after the effective date of this 2019 Act.**

26 **(2) The amendments to ORS 31.735 by section 1 of this 2019 Act do not apply to a cause**
27 **of action for which a judgment was entered before the effective date of this 2019 Act.**

28 **SECTION 3. This 2019 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
30 **on its passage.**

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