

Enrolled
Senate Bill 980

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to the Department of Corrections; creating new provisions; and amending ORS 423.105.

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

SECTION 1. ORS 423.105, as amended by section 8, chapter 120, Oregon Laws 2018, is amended to read:

423.105. (1) As used in this section:

(a) "Collected moneys" means moneys that have been collected from an inmate trust account by the Department of Corrections pursuant to this section.

(b) "Court-ordered financial obligation" means:

(A) A compensatory fine imposed pursuant to ORS 137.101, an award of restitution as defined in ORS 137.103 or any other fines, fees or court-appointed attorney fees imposed in a criminal action;

(B) A child support obligation;

(C) A civil judgment including a money award [*for a crime victim entered against an inmate resulting from a crime committed by the inmate*] **in which the Department of Justice is a judgment creditor**; or

(D) A civil judgment including a money award entered against an inmate resulting from an action for the inmate's assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(c) **"Criminal action" has the meaning given that term in ORS 131.005.**

[(c)] (d) "Eligible moneys" means moneys deposited in an inmate trust account that are subject to collection under this section, including but not limited to inmate performance monetary awards and moneys received from an inmate's family members or friends. "Eligible moneys" does not include protected moneys.

[(d)] (e) "Inmate" means a person who is at least 18 years of age and in the physical custody of the Department of Corrections. "Inmate" does not include:

(A) A person on leave from prison due to participation in an alternative incarceration program established under ORS 421.504 or short-term transitional leave under ORS 421.168.

(B) A person transferred into or out of department custody pursuant to an interstate corrections compact.

(C) A person in the physical custody of the Oregon Youth Authority.

(D) A person in the physical custody of a county jail or other county detention facility.

[(e)] (f) "Protected moneys" means moneys deposited in an inmate trust account that are not subject to collection under state or federal law or under this section including but not limited to:

(A) Disability benefits for veterans;

(B) Moneys received from a Native American tribe or tribal government;

- (C) Moneys dedicated for medical, dental or optical expenses or emergency trips;
- (D) Railroad retirement benefits; or

(E) Moneys paid as compensation to an inmate in a prison work program established under the Prison Industries Enhancement Certification Program, or a successor program designated by the United States Director of the Bureau of Justice Assistance pursuant to 18 U.S.C. 1761.

(2)(a) **Notwithstanding ORS 161.675**, the Department of Corrections shall collect eligible moneys from an inmate trust account if the inmate owes court-ordered financial obligations as described in this section.

(b) Notwithstanding any other provision of this section, the department may deduct a fixed percentage of each inmate performance monetary award made to an inmate, to be credited to a general victims assistance fund, before crediting the remainder of the award to the inmate trust account.

(3)(a) The [*Department of Justice and the*] Judicial Department shall provide an accounting to the Department of Corrections of court-ordered financial obligations **described in subsection (1)(b)(A) of this section**, if any, owed by each inmate. The accounting records may be provided electronically in a format agreed upon by the departments.

(b) Upon receipt of the accounting records described in paragraph (a) of this subsection, the Department of Corrections shall collect a portion of eligible moneys from the inmate trust account of each inmate as follows:

(A) Until an inmate not sentenced to death or to life imprisonment without the possibility of release or parole has \$500 in a transitional fund to facilitate reentry after release, 10 percent of eligible moneys shall be collected for court-ordered financial obligations and five percent of eligible moneys shall be collected and transferred to the inmate's transitional fund.

(B) After the inmate has at least \$500 in the transitional fund, or if the inmate has been sentenced to death or to life imprisonment without the possibility of release or parole, the department shall collect 15 percent of eligible moneys for court-ordered financial obligations.

(C) After court-ordered financial obligations have been paid, an inmate not sentenced to death or to life imprisonment without the possibility of release or parole may elect to continue to transfer five percent of eligible moneys into the transitional fund.

(c) Notwithstanding ORS 18.615 or any other provision of law, while moneys held in an inmate's transitional fund described in this subsection remain within the custody or control of the Department of Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment or any other process.

(4) There are [*three*] **four** levels of priority for the application of collected moneys to court-ordered financial obligations, with Level I obligations having the highest priority and Level [*III*] **IV** obligations having the lowest priority. The levels are as follows:

(a) Level I obligations are compensatory fines imposed pursuant to ORS 137.101, awards of restitution defined in ORS 137.103 and fines, fees or court-appointed attorney fees imposed in a criminal action.

(b) Level II obligations are civil judgments that include a money award in which the Department of Justice is a judgment creditor.

[(*b*)] (c) Level [*II*] **III** obligations are child support obligations [*and civil judgments including a money award for a crime victim entered against an inmate resulting from a crime committed by the inmate*].

[(*c*)] (d) Level [*III*] **IV** obligations are civil judgments including a money award entered against an inmate resulting from an action for the inmate's assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(5)(a) After receiving the accounting records described in subsection (3) of this section, the Department of Corrections shall disburse the collected moneys for court-ordered financial obligations to the Department of Justice and the Judicial Department, **as appropriate**.

(b) The Department of Justice and the Judicial Department shall apply the collected moneys received from the Department of Corrections under this subsection to an inmate's court-ordered financial obligations according to the priority levels of the obligations.

(6)(a) The Department of Justice may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(b) The Judicial Department may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(c) The Department of Corrections may create subaccounts for the purposes of storing collected moneys prior to disbursement under this section.

(7) The Department of Corrections, the Department of Justice and the Judicial Department may adopt rules to implement this section.

SECTION 2. ORS 423.105, as amended by section 8, chapter 120, Oregon Laws 2018, and section 1 of this 2019 Act, is amended to read:

423.105. (1) As used in this section:

(a) "Collected moneys" means moneys that have been collected from an inmate trust account by the Department of Corrections pursuant to this section.

(b) "Court-ordered financial obligation" means:

(A) A compensatory fine imposed pursuant to ORS 137.101, an award of restitution as defined in ORS 137.103 or any other fines, fees or court-appointed attorney fees imposed in a criminal action;

(B) A child support obligation;

(C) A civil judgment including a money award in which the Department of Justice is a judgment creditor; or

(D) A civil judgment including a money award entered against an inmate resulting from an action for the inmate's assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(c) "Criminal action" has the meaning given that term in ORS 131.005.

(d) "Eligible moneys" means moneys deposited in an inmate trust account that are subject to collection under this section, including but not limited to inmate performance monetary awards and moneys received from an inmate's family members or friends. "Eligible moneys" does not include protected moneys.

(e) "Inmate" means a person who is at least 18 years of age and in the physical custody of the Department of Corrections. "Inmate" does not include:

(A) A person on leave from prison due to participation in an alternative incarceration program established under ORS 421.504 or short-term transitional leave under ORS 421.168.

(B) A person transferred into or out of department custody pursuant to an interstate corrections compact.

(C) A person in the physical custody of the Oregon Youth Authority.

(D) A person in the physical custody of a county jail or other county detention facility.

(f) "Protected moneys" means moneys deposited in an inmate trust account that are not subject to collection under state or federal law or under this section including but not limited to:

(A) Disability benefits for veterans;

(B) Moneys received from a Native American tribe or tribal government;

(C) Moneys dedicated for medical, dental or optical expenses or emergency trips;

(D) Railroad retirement benefits; or

(E) Moneys paid as compensation to an inmate in a prison work program established under the Prison Industries Enhancement Certification Program, or a successor program designated by the United States Director of the Bureau of Justice Assistance pursuant to 18 U.S.C. 1761.

(2)(a) Notwithstanding ORS 161.675, the Department of Corrections shall collect eligible moneys from an inmate trust account if the inmate owes court-ordered financial obligations as described in this section.

(b) Notwithstanding any other provision of this section, the department may deduct a fixed percentage of each inmate performance monetary award made to an inmate, to be credited to a

general victims assistance fund, before crediting the remainder of the award to the inmate trust account.

(3)(a) The Judicial Department shall provide an accounting to the Department of Corrections of court-ordered financial obligations described in subsection (1)(b)(A) of this section, if any, owed by each inmate. **The Department of Justice shall provide an accounting of court-ordered financial obligations described in subsection (1)(b)(B) and (C) of this section.** The accounting records may be provided electronically in a format agreed upon by the departments.

(b) Upon receipt of the accounting records described in paragraph (a) of this subsection, the Department of Corrections shall collect a portion of eligible moneys from the inmate trust account of each inmate as follows:

(A) Until an inmate not sentenced to death or to life imprisonment without the possibility of release or parole has \$500 in a transitional fund to facilitate reentry after release, 10 percent of eligible moneys shall be collected for court-ordered financial obligations and five percent of eligible moneys shall be collected and transferred to the inmate's transitional fund.

(B) After the inmate has at least \$500 in the transitional fund, or if the inmate has been sentenced to death or to life imprisonment without the possibility of release or parole, the department shall collect 15 percent of eligible moneys for court-ordered financial obligations.

(C) After court-ordered financial obligations have been paid, an inmate not sentenced to death or to life imprisonment without the possibility of release or parole may elect to continue to transfer five percent of eligible moneys into the transitional fund.

(c) Notwithstanding ORS 18.615 or any other provision of law, while moneys held in an inmate's transitional fund described in this subsection remain within the custody or control of the Department of Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment or any other process.

(4) There are four levels of priority for the application of collected moneys to court-ordered financial obligations, with Level I obligations having the highest priority and Level IV obligations having the lowest priority. The levels are as follows:

(a) Level I obligations are compensatory fines imposed pursuant to ORS 137.101, awards of restitution defined in ORS 137.103 and fines, fees or court-appointed attorney fees imposed in a criminal action.

(b) Level II obligations are civil judgments that include a money award in which the Department of Justice is a judgment creditor.

(c) Level III obligations are child support obligations.

(d) Level IV obligations are civil judgments including a money award entered against an inmate resulting from an action for the inmate's assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(5)(a) After receiving the accounting records described in subsection (3) of this section, the Department of Corrections shall disburse the collected moneys for court-ordered financial obligations to the Department of Justice and the Judicial Department, as appropriate.

(b) The Department of Justice and the Judicial Department shall apply the collected moneys received from the Department of Corrections under this subsection to an inmate's court-ordered financial obligations according to the priority levels of the obligations.

(6)(a) The Department of Justice may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(b) The Judicial Department may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(c) The Department of Corrections may create subaccounts for the purposes of storing collected moneys prior to disbursement under this section.

(7) The Department of Corrections, the Department of Justice and the Judicial Department may adopt rules to implement this section.

SECTION 3. The amendments to ORS 423.105 by section 2 of this 2019 Act become operative July 1, 2021.

SECTION 3a. If House Bill 3146 becomes law, section 1 of this 2019 Act (amending ORS 423.105) is repealed and ORS 423.105, as amended by section 8, chapter 120, Oregon Laws 2018, and section 99, chapter 213, Oregon Laws 2019 (Enrolled House Bill 3146), is amended to read:

423.105. (1) As used in this section:

(a) "Adult in custody" means a person who is at least 18 years of age and in the physical custody of the Department of Corrections. "Adult in custody" does not include:

(A) A person on leave from prison due to participation in an alternative incarceration program established under ORS 421.504 or short-term transitional leave under ORS 421.168.

(B) A person transferred into or out of department custody pursuant to an interstate corrections compact.

(C) A person in the physical custody of the Oregon Youth Authority.

(D) A person in the physical custody of a county jail or other county detention facility.

(b) "Collected moneys" means moneys that have been collected from an adult in custody trust account by the Department of Corrections pursuant to this section.

(c) "Court-ordered financial obligation" means:

(A) A compensatory fine imposed pursuant to ORS 137.101, an award of restitution as defined in ORS 137.103 or any other fines, fees or court-appointed attorney fees imposed in a criminal action;

(B) A child support obligation;

(C) A civil judgment including a money award [*for a crime victim entered against an adult in custody resulting from a crime committed by the adult in custody*] **in which the Department of Justice is a judgment creditor;** or

(D) A civil judgment including a money award entered against an adult in custody resulting from an action for the assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(d) "Criminal action" has the meaning given that term in ORS 131.005.

[*d*] (e) "Eligible moneys" means moneys deposited in an adult in custody trust account that are subject to collection under this section, including but not limited to adult in custody performance monetary awards and moneys received from family members or friends of the adult in custody. "Eligible moneys" does not include protected moneys.

[*e*] (f) "Protected moneys" means moneys deposited in an adult in custody trust account that are not subject to collection under state or federal law or under this section including but not limited to:

(A) Disability benefits for veterans;

(B) Moneys received from a Native American tribe or tribal government;

(C) Moneys dedicated for medical, dental or optical expenses or emergency trips;

(D) Railroad retirement benefits; or

(E) Moneys paid as compensation to an adult in custody in a prison work program established under the Prison Industries Enhancement Certification Program, or a successor program designated by the United States Director of the Bureau of Justice Assistance pursuant to 18 U.S.C. 1761.

(2)(a) **Notwithstanding ORS 161.675**, the Department of Corrections shall collect eligible moneys from an adult in custody trust account if the adult in custody owes court-ordered financial obligations as described in this section.

(b) Notwithstanding any other provision of this section, the department may deduct a fixed percentage of each adult in custody performance monetary award made to an adult in custody, to be credited to a general victims assistance fund, before crediting the remainder of the award to the adult in custody trust account.

(3)(a) The [*Department of Justice and the*] Judicial Department shall provide an accounting to the Department of Corrections of court-ordered financial obligations **described in subsection (1)(c)(A) of this section**, if any, owed by each adult in custody. The accounting records may be provided electronically in a format agreed upon by the departments.

(b) Upon receipt of the accounting records described in paragraph (a) of this subsection, the Department of Corrections shall collect a portion of eligible moneys from the adult in custody trust account of each adult in custody as follows:

(A) Until an adult in custody not sentenced to death or to life imprisonment without the possibility of release or parole has \$500 in a transitional fund to facilitate reentry after release, 10 percent of eligible moneys shall be collected for court-ordered financial obligations and five percent of eligible moneys shall be collected and transferred to the transitional fund.

(B) After the adult in custody has at least \$500 in the transitional fund, or if the adult in custody has been sentenced to death or to life imprisonment without the possibility of release or parole, the department shall collect 15 percent of eligible moneys for court-ordered financial obligations.

(C) After court-ordered financial obligations have been paid, an adult in custody not sentenced to death or to life imprisonment without the possibility of release or parole may elect to continue to transfer five percent of eligible moneys into the transitional fund.

(c) Notwithstanding ORS 18.615 or any other provision of law, while moneys held in a transitional fund described in this subsection remain within the custody or control of the Department of Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment or any other process.

(4) There are *[three]* **four** levels of priority for the application of collected moneys to court-ordered financial obligations, with Level I obligations having the highest priority and Level *[III]* **IV** obligations having the lowest priority. The levels are as follows:

(a) Level I obligations are compensatory fines imposed pursuant to ORS 137.101, awards of restitution defined in ORS 137.103 and fines, fees or court-appointed attorney fees imposed in a criminal action.

(b) Level II obligations are civil judgments that include a money award in which the Department of Justice is a judgment creditor.

[(b)] (c) Level [II] III obligations are child support obligations [and civil judgments including a money award for a crime victim entered against an adult in custody resulting from a crime committed by the adult in custody].

[(c)] (d) Level [III] IV obligations are civil judgments including a money award entered against an adult in custody resulting from an action for the assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(5)(a) After receiving the accounting records described in subsection (3) of this section, the Department of Corrections shall disburse the collected moneys for court-ordered financial obligations to the Department of Justice and the Judicial Department, **as appropriate.**

(b) The Department of Justice and the Judicial Department shall apply the collected moneys received from the Department of Corrections under this subsection to the court-ordered financial obligations of an adult in custody according to the priority levels of the obligations.

(6)(a) The Department of Justice may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(b) The Judicial Department may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(c) The Department of Corrections may create subaccounts for the purposes of storing collected moneys prior to disbursement under this section.

(7) The Department of Corrections, the Department of Justice and the Judicial Department may adopt rules to implement this section.

SECTION 3b. If House Bill 3146 becomes law, section 2 of this 2019 Act (amending ORS 423.105) is repealed and ORS 423.105, as amended by section 8, chapter 120, Oregon Laws 2018, section 99, chapter 213, Oregon Laws 2019 (Enrolled House Bill 3146), and section 3a of this 2019 Act, is amended to read:

423.105. (1) As used in this section:

(a) "Adult in custody" means a person who is at least 18 years of age and in the physical custody of the Department of Corrections. "Adult in custody" does not include:

(A) A person on leave from prison due to participation in an alternative incarceration program established under ORS 421.504 or short-term transitional leave under ORS 421.168.

(B) A person transferred into or out of department custody pursuant to an interstate corrections compact.

(C) A person in the physical custody of the Oregon Youth Authority.

(D) A person in the physical custody of a county jail or other county detention facility.

(b) "Collected moneys" means moneys that have been collected from an adult in custody trust account by the Department of Corrections pursuant to this section.

(c) "Court-ordered financial obligation" means:

(A) A compensatory fine imposed pursuant to ORS 137.101, an award of restitution as defined in ORS 137.103 or any other fines, fees or court-appointed attorney fees imposed in a criminal action;

(B) A child support obligation;

(C) A civil judgment including a money award in which the Department of Justice is a judgment creditor; or

(D) A civil judgment including a money award entered against an adult in custody resulting from an action for the assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(d) "Criminal action" has the meaning given that term in ORS 131.005.

(e) "Eligible moneys" means moneys deposited in an adult in custody trust account that are subject to collection under this section, including but not limited to adult in custody performance monetary awards and moneys received from family members or friends of the adult in custody. "Eligible moneys" does not include protected moneys.

(f) "Protected moneys" means moneys deposited in an adult in custody trust account that are not subject to collection under state or federal law or under this section including but not limited to:

(A) Disability benefits for veterans;

(B) Moneys received from a Native American tribe or tribal government;

(C) Moneys dedicated for medical, dental or optical expenses or emergency trips;

(D) Railroad retirement benefits; or

(E) Moneys paid as compensation to an adult in custody in a prison work program established under the Prison Industries Enhancement Certification Program, or a successor program designated by the United States Director of the Bureau of Justice Assistance pursuant to 18 U.S.C. 1761.

(2)(a) Notwithstanding ORS 161.675, the Department of Corrections shall collect eligible moneys from an adult in custody trust account if the adult in custody owes court-ordered financial obligations as described in this section.

(b) Notwithstanding any other provision of this section, the department may deduct a fixed percentage of each adult in custody performance monetary award made to an adult in custody, to be credited to a general victims assistance fund, before crediting the remainder of the award to the adult in custody trust account.

(3)(a) The Judicial Department shall provide an accounting to the Department of Corrections of court-ordered financial obligations described in subsection (1)(c)(A) of this section, if any, owed by each adult in custody. **The Department of Justice shall provide an accounting of court-ordered financial obligations described in subsection (1)(c)(B) and (C) of this section.** The accounting records may be provided electronically in a format agreed upon by the departments.

(b) Upon receipt of the accounting records described in paragraph (a) of this subsection, the Department of Corrections shall collect a portion of eligible moneys from the adult in custody trust account of each adult in custody as follows:

(A) Until an adult in custody not sentenced to death or to life imprisonment without the possibility of release or parole has \$500 in a transitional fund to facilitate reentry after release, 10 percent of eligible moneys shall be collected for court-ordered financial obligations and five percent of eligible moneys shall be collected and transferred to the transitional fund.

(B) After the adult in custody has at least \$500 in the transitional fund, or if the adult in custody has been sentenced to death or to life imprisonment without the possibility of release or parole, the department shall collect 15 percent of eligible moneys for court-ordered financial obligations.

(C) After court-ordered financial obligations have been paid, an adult in custody not sentenced to death or to life imprisonment without the possibility of release or parole may elect to continue to transfer five percent of eligible moneys into the transitional fund.

(c) Notwithstanding ORS 18.615 or any other provision of law, while moneys held in a transitional fund described in this subsection remain within the custody or control of the Department of Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment or any other process.

(4) There are four levels of priority for the application of collected moneys to court-ordered financial obligations, with Level I obligations having the highest priority and Level IV obligations having the lowest priority. The levels are as follows:

(a) Level I obligations are compensatory fines imposed pursuant to ORS 137.101, awards of restitution defined in ORS 137.103 and fines, fees or court-appointed attorney fees imposed in a criminal action.

(b) Level II obligations are civil judgments that include a money award in which the Department of Justice is a judgment creditor.

(c) Level III obligations are child support obligations.

(d) Level IV obligations are civil judgments including a money award entered against an adult in custody resulting from an action for the assault or battery of a Department of Corrections or Oregon Corrections Enterprises employee.

(5)(a) After receiving the accounting records described in subsection (3) of this section, the Department of Corrections shall disburse the collected moneys for court-ordered financial obligations to the Department of Justice and the Judicial Department, as appropriate.

(b) The Department of Justice and the Judicial Department shall apply the collected moneys received from the Department of Corrections under this subsection to the court-ordered financial obligations of an adult in custody according to the priority levels of the obligations.

(6)(a) The Department of Justice may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(b) The Judicial Department may create a subaccount in which to deposit the collected moneys received from the Department of Corrections under this section.

(c) The Department of Corrections may create subaccounts for the purposes of storing collected moneys prior to disbursement under this section.

(7) The Department of Corrections, the Department of Justice and the Judicial Department may adopt rules to implement this section.

SECTION 3c. If House Bill 3146 becomes law, section 3 of this 2019 Act is amended to read:

Sec. 3. The amendments to ORS 423.105 by section [2] **3b** of this 2019 Act become operative July 1, 2021.

Passed by Senate April 24, 2019

Repassed by Senate June 12, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 4, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State