

A-Engrossed
Senate Bill 980

Ordered by the Senate April 19
Including Senate Amendments dated April 19

Sponsored by COMMITTEE ON JUDICIARY

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.

[Directs Department of Corrections to conduct study on provision of treatment services to persons in custody of department and present report on findings to interim committees of Legislative Assembly related to judiciary on or before September 15, 2020.]

[Sunsets January 2, 2021.]

Modifies procedures by which eligible moneys are collected from Department of Corrections inmates for payment of court-ordered financial obligations. Specifies accountings that Judicial Department and Department of Justice are responsible for providing to Department of Corrections. Provides that Department of Justice accounting responsibilities begin July 1, 2020. Adds priority level for certain civil judgments.

A BILL FOR AN ACT

1
2 Relating to the Department of Corrections; creating new provisions; and amending ORS 423.105.

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

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

6 423.105. (1) As used in this section:

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

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

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

12 (B) A child support obligation;

13 (C) A civil judgment including a money award for a crime victim entered against an inmate re-
14 sulting from a crime committed by the inmate; or

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

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

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

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

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

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

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

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

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

9 (A) Disability benefits for veterans;

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

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

12 (D) Railroad retirement benefits; or

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

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

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

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

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

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

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

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

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

44 (4) There are three levels of priority for the application of collected moneys to court-ordered
45 financial obligations, with Level I obligations having the highest priority and Level [III] IV obli-

1 gations having the lowest priority. The levels are as follows:

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

5 **(b) Level II obligations are civil judgments that include a money award for a crime victim**
6 **entered against an inmate resulting from a crime committed by the inmate in which the**
7 **Department of Justice is a judgment creditor.**

8 [(b)] (c) Level [II] **III** obligations are child support obligations and **all other** civil judgments
9 including a money award for a crime victim entered against an inmate resulting from a crime com-
10 mitted by the inmate.

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

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

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

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

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

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

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

28 **SECTION 2.** ORS 423.105, as amended by section 8, chapter 120, Oregon Laws 2018, and section
29 1 of this 2019 Act is amended to read:

30 423.105. (1) As used in this section:

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

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

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

36 (B) A child support obligation;

37 (C) A civil judgment including a money award for a crime victim entered against an inmate re-
38 sulting from a crime committed by the inmate; or

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

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

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

1 protected moneys.

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

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

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

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

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

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

12 (A) Disability benefits for veterans;

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

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

15 (D) Railroad retirement benefits; or

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

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

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

26 (3)(a) The Judicial Department shall provide an accounting to the Department of Corrections
27 of court-ordered financial obligations described in subsection (1)(b)(A) of this section, if any, owed
28 by each inmate. **The Department of Justice shall provide an accounting of court-ordered fi-**
29 **nancial obligations described in subsection (1)(b)(A) and (D) of this section and for court-**
30 **ordered financial obligations described in subsection (1)(b)(C) of this section in which the**
31 **department is a judgment creditor.** The accounting records may be provided electronically in a
32 format agreed upon by the departments.

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

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

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

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

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

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

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

11 (b) Level II obligations are civil judgments that include a money award for a crime victim en-
12 tered against an inmate resulting from a crime committed by the inmate in which the Department
13 of Justice is a judgment creditor.

14 (c) Level III obligations are child support obligations and all other civil judgments including a
15 money award for a crime victim entered against an inmate resulting from a crime committed by the
16 inmate.

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

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

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

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

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

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

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

34 **SECTION 3. The amendments to ORS 423.105 by section 2 of this 2019 Act become oper-**
35 **ative July 1, 2020.**

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