

Oregon Statutes Related to Restitution

Note that this is a compilation of the bulk of Oregon's statutes related to restitution, although it does not contain each and every statute that mentions or tangentially relates to the topic.

(Restitution)

137.103 Definitions for ORS 137.101 to 137.109. As used in ORS 137.101 to 137.109:

(1) "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.

(2) "Economic damages":

(a) Has the meaning given that term in ORS 31.710, except that "economic damages" does not include future impairment of earning capacity; and

(b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes the greater of:

(A) The value to the defendant of the victim's services as defined in ORS 163.261; or

(B) The value of the victim's services, as defined in ORS 163.261, computed using the minimum wage established under ORS 653.025 and the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) "Restitution" means full, partial or nominal payment of economic damages to a victim. Restitution is independent of and may be awarded in addition to a compensatory fine awarded under ORS 137.101.

(4) "Victim" means:

(a) The person or decedent against whom the defendant committed the criminal offense, if the court determines that the person or decedent has suffered or did suffer economic damages as a result of the offense.

(b) Any person not described in paragraph (a) of this subsection whom the court determines has suffered economic damages as a result of the defendant's criminal activities.

(c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.

(d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.

(e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate of the victim.

(f) The estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust against which the defendant committed the criminal offense, if the court determines that the estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic damages as a result of the offense.

(5) "Victim" does not include any coparticipant in the defendant's criminal activities. [1977 c.371 §1; 1981 c.637 §1; 1983 c.488 §1; 1983 c.740 §16; 1987 c.905 §16; 2005 c.564 §1; 2005 c.642 §4; 2007 c.811 §5; 2015 c.9 §1]

137.105 Authority of trial court during pendency of appeal. (1) The trial court retains authority during the pendency of an appeal to determine restitution and to enter a supplemental judgment specifying the amount and terms of restitution or an order denying restitution.

(2) If the trial court enters a supplemental judgment or an order under subsection (1) of this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the supplemental judgment or the order to the appellate court. [2017 c.529 §19]

Note: 137.105 was added to and made a part of 137.101 to 137.109 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

137.106 Restitution to victims; objections by defendant; disclosure to defendant. (1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008, that has resulted in economic damages, the district attorney shall investigate and present to the court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature and amount of the damages. The court may extend the time by which the presentation must be made for good cause. If the court finds from the evidence presented that a victim suffered economic damages, in addition to any other sanction it may impose, the court shall enter a judgment or supplemental judgment requiring that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's economic damages as determined by the court. The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.

(b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages only if:

(A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents to the lesser amount, if the conviction is not for a person felony; or

(B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents in writing to the lesser amount, if the conviction is for a person felony.

(c) As used in this subsection, "person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.

(3) No finding made by the court or failure of the court to make a finding under this section limits or impairs the rights of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.

(4)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to pay the judgment in full at the time the judgment is entered. If the court finds that the defendant is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule, taking into consideration the financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant. The supervising authority shall be authorized to modify any payment schedule established under this section.

(b) As used in this subsection, “supervising authority” means any state or local agency that is authorized to supervise the defendant.

(5) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time of sentencing or at the time the court determines the amount of restitution.

(6)(a) At least 10 days prior to the presentation described in subsection (1) of this section, the district attorney shall:

(A) Disclose to the defendant the names of any witnesses that may be called during the presentation; and

(B) Provide the defendant with copies of, or allow the defendant to inspect, any exhibits that will be used or introduced during the presentation.

(b) If the court finds that the district attorney has violated the requirements of this subsection, the court shall grant a continuance to allow additional time for preparation upon request of the defendant. Any additional time granted under this paragraph may not count toward the 90-day time limitation described in subsection (1) of this section. [1977 c.371 §2; 1983 c.724 §1; 1993 c.533 §1; 1997 c.313 §23; 1999 c.1051 §124; 2003 c.670 §1; 2005 c.564 §2; 2007 c.425 §1; 2007 c.482 §1; 2013 c.388 §1; 2015 c.9 §2]

137.107 Authority of court to amend part of judgment relating to restitution. At any time after entry of a judgment upon conviction of a crime, the court may amend that part of the judgment relating to restitution if, in the original judgment, the court included language imposing, recommending or requiring restitution but failed to conform the judgment to the requirements of ORS 18.048 or any other law governing the form of judgments in effect before January 1, 2004. [1997 c.526 §2; 2003 c.576 §163]

Note: 137.107 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

137.108 Restitution when defendant has entered into diversion agreement. (1) When a person has entered into a driving while under the influence of intoxicants diversion agreement and the person’s actions resulted in economic damages, the district attorney shall investigate and present to the court within 90 days of when the diversion agreement is entered, evidence of the nature and amount of the damages. If the court finds from the evidence presented that a victim suffered economic damages, the court shall order the defendant to pay restitution and include in the diversion agreement one of the following:

(a) A requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court.

(b) A requirement that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim’s economic damages, with the consent of the victim.

(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.

(3) A finding made by the court under this section, or a failure of the court to make a finding, does not limit or impair the right of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.

(4) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time the court determines the amount of restitution.

(5) As used in this section, “victim” includes any person the court determines has suffered economic damages as a result of the act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement. [2013 c.78 §7]

137.109 Effect of restitution order on other remedies of victim; credit of restitution against subsequent civil judgment; effect of criminal judgment on subsequent civil action. (1) Nothing in ORS 137.103 to 137.109, 137.540, 144.102, 144.275, 161.675 and 161.685 limits or impairs the right of a person injured by a defendant’s commission of a crime, by a defendant’s commission of a violation described in ORS 153.008, or by a defendant’s commission of an act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement, to sue and recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay restitution pursuant to ORS 137.103 to 137.109, 137.540, 144.102, 144.275, 161.675 and 161.685 may not be introduced in any civil action arising out of the facts or events that were the basis for the restitution. However, the court shall credit any restitution paid by the defendant to a victim against any judgment in favor of the victim in such civil action.

(2) If conviction in a criminal trial necessarily decides the issue of a defendant’s liability for economic damages of a victim, that issue is conclusively determined as to the defendant if it is involved in a subsequent civil action. [1977 c.371 §7; 1993 c.533 §2; 1997 c.526 §4; 1999 c.1051 §125; 2005 c.564 §3; 2013 c.78 §8]

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(Collection of Monetary Obligations)

137.118 Assignment of judgments for collection of monetary obligation; costs of collection. (1) Judgments in criminal actions that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution, may be assigned by the state, by a municipal court or by a justice court for collection.

(2)(a) The state may assign a judgment to the Department of Revenue or a private collection agency.

(b) A justice court may assign a judgment to a private collection agency or, in a criminal action, to the Department of Revenue for the purposes described in ORS 156.315.

(c) A municipal court may assign a judgment to:

(A) A private collection agency; or

(B) The Department of Revenue for the purposes described in subsections (6) to (8) of this section, if the judgment was entered in a criminal action and part of the judgment is payable to the State of Oregon.

(d) Nothing in this subsection limits the right of a municipal court or a justice court to assign for collection judgments in matters other than criminal actions.

(3) A municipal or justice court may add to any judgment in a criminal action that includes a monetary obligation a fee for the cost of collection if the court gives the defendant a period of time to pay the obligation after the date of imposition of the sentence or after the date of the hearing or proceeding that results in the imposition of the financial obligation. The fee may not exceed 25 percent of the monetary obligation imposed by the court without the addition of the cost of collection and may not be more than \$250. The fee shall be waived or suspended by the court if the defendant pays the monetary obligation in the manner required by the court.

(4) A state court shall add to any judgment in a criminal action that includes a monetary obligation the fees required by ORS 1.202.

(5) As used in subsections (1) to (5) of this section, “criminal action” has the meaning given that term in ORS 131.005.

(6) If part of a judgment in a criminal action, as described in subsections (1) to (5) of this section, is payable to the State of Oregon, a municipal court may assign the judgment to the Collections Unit in the Department of Revenue for the following purposes:

(a) To determine whether refunds or other sums are owed to the debtor by the department; and

(b) To deduct the amount of debt from any refunds or other sums owed to the debtor by the department.

(7) If the Collections Unit determines that refunds or other sums are owed to the debtor, the department shall deduct the amount of the debt from any refunds or other sums owed to the debtor by the department. After also deducting costs of its actions under subsections (6) to (8) of this section, the department shall remit the amount deducted from refunds or other sums owed to the debtor to the municipal court that assigned the judgment.

(8) A debtor whose account is assigned to the Department of Revenue for setoff under subsections (6) to (8) of this section is entitled to the notice required by ORS 293.250 (5)(d). [1993 c.531 §1; 1995 c.512 §2; 1997 c.801 §99; 1999 c.64 §1; 2001 c.823 §19; 2003 c.375 §1; subsections (6) to (8) of 2005 Edition enacted as 2005 c.501 §1; 2005 c.501 §2; 2015 c.766 §10; 2017 c.746 §22; 2019 c.359 §3]

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(Payment of Monetary Obligations)

137.143 All monetary obligations constitute single obligation on part of convicted person. All fines, costs, restitution, compensatory fines and other monetary obligations imposed upon a convicted person in a circuit, justice or municipal court constitute a single obligation on the part of the convicted person. The clerk shall divide the total obligation as provided in ORS 137.145 to 137.159, based on the different parts of the obligation, and shall credit and distribute all moneys received in payment of the obligation in the manner provided by ORS 137.145 to 137.159. [Formerly 137.288]

Note: 137.143 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

137.145 Definitions for ORS 137.145 to 137.159. As used in ORS 137.145 to 137.159:

(1) “Criminal judgment” means a judgment of conviction in a criminal action.

(2) “Local court” means a justice or municipal court. [2013 c.685 §15]

137.146 Priorities for application of payments on criminal judgments entered in circuit courts. (1) There are five levels of priority for application of payments on criminal judgments entered in circuit courts, with Level I obligations having the highest priority and Level V obligations having the lowest priority. All payments on a criminal judgment entered in a circuit court shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.

(2) Except as provided in ORS 137.153, if there is more than one person or public body to whom an obligation is payable under a level, a circuit court shall divide each payment based on each person’s or public body’s proportionate share of the total amount of obligations in that level. [Formerly 137.289]

137.147 Priorities for application of payments on criminal judgments entered in local courts. (1) There are four levels of priority for application of payments on criminal judgments entered in local courts, with Level I obligations having the highest priority and Level IV obligations having the lowest priority. All payments on a criminal judgment entered in a local court shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.

(2) Except as provided in ORS 137.154, if there is more than one person or public body to whom an obligation is payable under a level, a local court shall divide each payment based on each person’s or public body’s proportionate share of the total amount of obligations in that level. [2013 c.685 §16]

137.149 Level I obligations in circuit court judgments. Level I obligations in criminal judgments entered in circuit courts are compensatory fines imposed pursuant to ORS 137.101. [Formerly 137.291]

137.150 [Amended by 1959 c.530 §1; 1969 c.511 §2; repealed by 1971 c.743 §432]

137.151 Level I obligations in local court judgments. Level I obligations in criminal judgments entered in local courts are compensatory fines imposed pursuant to ORS 137.101. [2013 c.685 §17]

137.153 Level II obligations in circuit court judgments. (1) There are two types of Level II obligations in criminal judgments entered in circuit courts:

(a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.

(b) Type 2 obligations include all fines and other monetary obligations payable to the state for which the law does not expressly provide other disposition, including fines payable to the state under ORS 153.633, 153.645 and 153.650.

(2) If a judgment contains both types of Level II obligations, the circuit court shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the amounts to Type 2 obligations, until all obligations in one of the two types have been paid in full. All subsequent amounts creditable to Level II obligations shall be applied against the other type of obligations until those obligations have been paid in full.

(3) If there is more than one person for whose benefit a Type 1 money award has been made, the circuit court shall pay the moneys credited to Type 1 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the court shall first pay all moneys credited to Type 1 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the court shall thereafter transfer moneys credited to Type 1 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the court shall thereafter pay the moneys credited to Type 1 obligations to those victims until those victims are paid in full. [Formerly 137.292]

137.154 Level II obligations in local court judgments. (1) There are two types of Level II obligations in criminal judgments entered in local courts:

(a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.

(b) Type 2 obligations include all fines and other monetary obligations payable to the state, a city or a county, after payment of the amount provided for in ORS 153.633 (2).

(2) If a criminal judgment entered in a local court contains both types of Level II obligations, the court shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the amounts to Type 2 obligations, until all obligations in one of the two types have been paid in full. All subsequent amounts creditable to Level II obligations shall be applied against the other type of obligations until those obligations have been paid in full.

(3) If there is more than one person for whose benefit a Type 1 money award has been made, a local court shall pay the moneys credited to Type 1 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the court shall first pay all moneys credited to Type 1 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the court shall thereafter transfer moneys credited to Type 1 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the court shall thereafter pay the moneys credited to Type 1 obligations to those victims until those victims are paid in full. [2013 c.685 §18]

137.155 Level III obligations in circuit court judgments. Level III obligations in criminal judgments entered in circuit courts are fines payable to a county or city. [Formerly 137.294]

137.156 Level III obligations in local court judgments. Level III obligations in criminal judgments entered in local courts are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109. [2013 c.685 §19]

137.157 Level IV obligations in circuit court judgments. Level IV obligations in criminal judgments entered in circuit courts are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109. [Formerly 137.296]

137.158 Level IV obligations in local court judgments. Level IV obligations in criminal judgments entered in local courts are amounts payable for reward reimbursement under ORS 131.897. [2013 c.685 §20]

137.159 Level V obligations in circuit court judgments. Level V obligations in criminal judgments entered in circuit courts are amounts payable for reward reimbursement under ORS 131.897. [Formerly 137.297]

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