

**PROPOSED AMENDMENTS TO
HOUSE BILL 2287**

1 In line 2 of the printed bill, delete “repealing ORS 5.110” and insert
2 “creating new provisions; amending ORS 1.202, 1.204, 2.565, 18.235, 21.010,
3 21.110, 21.114, 21.270, 21.275, 21.310, 21.325, 46.570, 105.130, 125.060, 131.897,
4 135.265, 135.921, 137.225, 137.293, 137.295, 137.540, 305.490, 419A.262 and
5 813.240; appropriating money; and providing for revenue raising that requires
6 approval by a three-fifths majority”.

7 Delete line 4 and insert:
8

9 **“COLLECTION ACCOUNT FEES**

10
11 **“SECTION 1.** ORS 1.202 is amended to read:

12 “1.202. (1) All circuit courts and appellate courts of this state, and all
13 commissions, departments and divisions of the judicial branch of state gov-
14 ernment, shall add a fee of not less than \$50 and not more than [~~\$100~~] **\$200**
15 to any judgment that includes a monetary obligation that the court or judi-
16 cial branch is charged with collecting. The fee shall be added to cover the
17 cost of establishing and administering an account for the debtor and shall
18 be added without further notice to the debtor or further order of the court.
19 The fee shall be added only if the court gives the defendant a period of time
20 in which to pay the obligation after the financial obligation is imposed. Fees
21 under this subsection shall be deposited in the [*General Fund*] **Judicial**
22 **Department Collections Account established under ORS 1.204 and may**

1 **be used only for the purposes specified in ORS 1.204.**

2 “(2) All circuit courts and appellate courts of this state, and all commis-
3 sions, departments and divisions of the judicial branch of state government,
4 *[that use the Department of Revenue or private collection agencies]* shall add
5 a fee to any *[judgment referred for collection that includes a monetary obli-*
6 *gation]* **monetary obligation** that the state court or the commission, de-
7 partment or division is charged with collecting, **that has been reduced to**
8 **judgment and that remains unpaid 60 days after the judgment has been**
9 **entered.** The fee shall be added to cover the costs of collection *[charged by*
10 *the Department of Revenue or private collection agency]* and shall be added to
11 the monetary obligation without further notice to the debtor or further order
12 of the court. **The amount of the fee shall be established by order of the**
13 **Chief Justice of the Supreme Court, but may not exceed the** *[actual costs*
14 *of collection charged by the Department of Revenue or private collection*
15 *agency]* **Department of Revenue’s average cost of collection for all**
16 **judgments, as determined by the Department of Revenue on July 1 of**
17 **every odd-numbered year.** Fees under this subsection shall be deposited in
18 the Judicial Department Collections Account established under ORS 1.204
19 and may be used only for the purposes specified in ORS 1.204.

20 “(3) *[A court may not waive or suspend]* **The Chief Justice may adopt**
21 **policies governing the waiver or suspension of the fees required to be**
22 **added to judgments under the provisions of this section.**

23 “**SECTION 1a. (1) The amendments to ORS 1.202 (1) by section 1 of**
24 **this 2009 Act providing that fees collected under ORS 1.202 (1) be de-**
25 **posited in the Judicial Department Collections Account apply to all**
26 **such fees collected on or after January 1, 2010, without regard to the**
27 **date of entry of the judgment for which the fee is imposed.**

28 “(2) **The amendments to ORS 1.202 (2) by section 1 of this 2009 Act**
29 **apply only to judgments entered on or after January 1, 2010.**

30 “**SECTION 2. ORS 1.204 is amended to read:**

1 "1.204. (1) The State Court Administrator may establish a collections and
2 revenue management program within the Judicial Department for the pur-
3 pose of administering accounts and collections. Subject to policies and pro-
4 cedures prescribed by the State Court Administrator, the collections and
5 revenue management program may collect, by any means authorized by law,
6 all amounts owing to the state that are subject to collection by the state
7 courts or by a commission, department or division in the judicial branch of
8 state government. The State Court Administrator may establish a separate
9 unit within the program for the collection of parking fines in counties with
10 populations of more than 500,000.

11 "(2) There is established within the General Fund the Judicial Depart-
12 ment Collections Account. The account shall consist of moneys deposited in
13 the account under the provisions of subsection (3) of this section **and ORS**
14 **1.202**. All moneys in the **Judicial Department Collections** Account are
15 continuously appropriated to the Judicial Department and may be used only
16 for the purposes specified in subsection (3) of this section **and ORS 1.202**.

17 "(3) All moneys collected by the collections and revenue management
18 program established under this section shall be deposited in the Judicial
19 Department Collections Account. At the end of each calendar month, the
20 State Court Administrator shall distribute the amounts in the account in the
21 following order of priority:

22 "(a) Except as provided in subsection (4) of this section, the collections
23 and revenue management program shall be reimbursed for actual costs and
24 expenses of the program, including personnel expenses, incurred in the ad-
25 ministration and collection of accounts. The amount of reimbursement may
26 not exceed the actual costs and expenses incurred by the collections and
27 revenue management program. The State Court Administrator may designate
28 a single percentage amount to be retained from all moneys collected under
29 the program, but must adjust that percentage amount periodically to reflect
30 actual program costs.

1 “(b) All moneys not expended under paragraph (a) of this subsection shall
2 be distributed as otherwise provided by law for the amounts collected.

3 “(4) The collections and revenue management program may not be reim-
4 bursed under subsection (3) of this section from any of the following amounts
5 collected under the program, and all such amounts collected under the pro-
6 gram shall be distributed as otherwise provided by law:

7 “(a) Restitution and compensatory fines paid under judgments in criminal
8 actions;

9 “(b) Legal aid fees collected under ORS 21.480;

10 “(c) Law library fees collected under ORS 21.350;

11 “(d) Dispute resolution surcharges imposed under ORS 36.170; and

12 “(e) Fees imposed under ORS 21.112.

13 “(5) **If at the end of any biennium the Judicial Department deter-**
14 **mines that the moneys available in the Judicial Department Col-**
15 **lections Account exceed the amount necessary to fund the collections**
16 **and revenue management program for a period of six months, the de-**
17 **partment shall transfer all moneys in excess of that amount in the**
18 **General Fund.**

19

20

“APPELLATE MEDIATION FEES

21

22 “SECTION 3. ORS 2.565 is amended to read:

23 “2.565. The Appellate Mediation Program Revolving Account is estab-
24 lished within the General Fund. The Judicial Department shall pay into the
25 State Treasury [~~\$40~~] **\$85** of each filing fee paid by petitioners under the
26 provisions of ORS 21.010, and [~~\$24~~] **\$85** of each filing fee paid by respondents
27 under the provisions of ORS 21.010. The State Treasurer shall deposit the
28 moneys in the General Fund to the credit of the Appellate Mediation Pro-
29 gram Revolving Account. The moneys in the account are appropriated con-
30 tinuously to the Judicial Department, and may be used only for the purpose

1 of administering the appellate mediation program established under the pro-
2 visions of ORS 2.560, including payment of administrative costs and costs of
3 providing mediation services to indigent parties.

4 **"SECTION 3a. The amendments to ORS 2.565 by section 3 of this**
5 **2009 Act apply only to filings under ORS 21.010 made on or after Jan-**
6 **uary 1, 2010.**

7

8

"FILING FEES

9

10 **"SECTION 4. ORS 21.010 is amended to read:**

11 "21.010. (1) Except as provided in subsection [(2)] (3) of this section, the
12 appellant in an appeal or the petitioner in a judicial review in the Supreme
13 Court or the Court of Appeals shall pay [*a filing fee of \$154 in the manner*
14 *prescribed by ORS 19.265*] **\$239 as the filing fee for a single party.** The
15 respondent in such case and any other person appearing in the appeal, upon
16 entering first appearance or filing first brief in the court, shall pay to the
17 State Court Administrator [*the sum of \$154*] **\$239 as the filing fee for a**
18 **single party.** The party entitled to costs and disbursements on such appeal
19 shall recover from the opponent the amount so paid.

20 **"(2) Except as provided in subsection (3) of this section, the**
21 **appellant in an appeal or the petitioner in a judicial review in the**
22 **Supreme Court or the Court of Appeals shall pay \$239 for each addi-**
23 **tional person named as an appellant or petitioner. The respondent in**
24 **such case, and any other person appearing in the appeal, shall pay \$239**
25 **to the State Court Administrator for each additional person named as**
26 **a respondent. The party entitled to costs and disbursements on such**
27 **appeal shall recover from the opponent the amount so paid. Fees col-**
28 **lected under this subsection shall be deposited by the clerk of the**
29 **court in the State Judicial Stabilization Fund.**

30 **"[(2)] (3) Filing and appearance fees may not be assessed in appeals from**

1 habeas corpus proceedings under ORS 34.710, post-conviction relief pro-
2 ceedings under ORS 138.650, juvenile court under ORS 419A.200 and the in-
3 voluntary commitment of persons determined to be mentally ill under ORS
4 426.135 or persons determined to be mentally retarded under ORS 427.295, or
5 on judicial review of orders of the Psychiatric Security Review Board under
6 ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison
7 Supervision.

8 “[3] (4) Filing and appearance fees shall be assessed in an appeal from
9 an appeal to a circuit court from a justice court or municipal court in an
10 action alleging commission of a state offense designated as a violation or an
11 action alleging violation of a city charter or ordinance, but not in an action
12 alleging commission of a state crime.

13 “[4] (5) Filing and appearance fees shall only be assessed in an appeal
14 in a contempt proceeding seeking imposition of remedial sanctions under the
15 provisions of ORS 33.055.

16 **“SECTION 4a. The amendments to ORS 21.010 by section 4 of this**
17 **2009 Act apply only to filings and appearances under ORS 21.010 made**
18 **on or after January 1, 2010.**

19 **“SECTION 5. ORS 21.110 is amended to read:**

20 “21.110. (1)(a) Except as otherwise provided in this section, at the time
21 of filing in the circuit court of any civil action, suit or proceeding, including
22 appeals, the clerk of the circuit court shall collect from the plaintiff,
23 appellant or moving party the sum of [~~\$107~~] **\$117** as [~~a~~] **the flat and uniform**
24 **filing fee for a single party.** In addition, at the time of filing any appear-
25 ance in any such action, suit or proceeding by any defendant or respondent
26 appearing separately, or upon the part of defendants or respondents appear-
27 ing jointly, the clerk shall collect from the party or parties the sum of
28 [~~\$107~~] **\$117** as [~~a~~] **the flat and uniform filing fee for a single party.**

29 **“(b) Except as otherwise provided in this section, at the time of**
30 **filing any civil action, suit or proceeding, including appeals, in the**

1 circuit court the clerk of the circuit court shall collect from the
2 plaintiff, appellant or moving party the sum of \$117 for each additional
3 party named in the pleading. In addition, at the time of filing any
4 appearance in such action, suit or proceeding by a defendant or re-
5 spondent appearing separately, or upon the part of defendants or re-
6 spondents appearing jointly, the clerk shall collect from the party or
7 parties the sum of \$117 for each additional party named in the plead-
8 ing. Fees collected under this paragraph shall be deposited by the clerk
9 of the court in the State Judicial Stabilization Fund.

10 “(2) In the following actions, the clerk of the circuit court shall collect
11 the sum of \$68 as a flat and uniform filing fee from the plaintiff, appellant
12 or moving party at the time the action is filed, and shall collect the sum of
13 \$68 as a flat and uniform filing fee from any defendant or respondent ap-
14 pearing separately, or upon the part of defendants or respondents appearing
15 jointly, at the time of filing any appearance in the action:

16 “(a) Actions for the recovery of money or damages only when the amount
17 claimed does not exceed \$10,000.

18 “(b) Actions for the recovery of specific personal property when the value
19 of the property claimed and the damages for the detention do not exceed
20 \$10,000.

21 “(c) Actions for the recovery of any penalty or forfeiture, whether given
22 by statute or arising out of contract, not exceeding \$10,000.

23 “(d) Actions to enforce, marshal and foreclose liens upon personal prop-
24 erty where the amount claimed for such liens does not exceed \$10,000.

25 “(e) Actions of interpleader, and in the nature of interpleader, when the
26 amount of money or the value of the property involved does not exceed
27 \$10,000.

28 “(f) Actions for injunctive relief under ORS chapter 90 when the amount
29 of any damages claimed does not exceed \$10,000.

30 “(3) The clerk of the court shall collect the sum of \$300 as a flat and

1 uniform filing fee from the petitioner in a proceeding under ORS 181.823 or
2 181.826, at the time the petition is filed. Fees collected under this subsection
3 shall be deposited into the Judicial Department Operating Account estab-
4 lished in ORS 1.009.

5 “(4) For purposes of subsection (2) of this section, the amount claimed,
6 value of property, damages or any amount in controversy does not include
7 any amount claimed as costs and disbursements or attorney fees as defined
8 by ORCP 68 A.

9 “(5) A pleading or other document shall be filed by the clerk only if the
10 fee required under this section is paid by the person filing the document, or
11 if a request for a fee waiver or deferral is granted by the court. No part of
12 any such filing fee shall be refunded to any party. The uniform fee shall
13 cover all services to be performed by the court or clerk in any such action,
14 suit or proceeding, except where additional fees are specially authorized by
15 law.

16 “(6) Any plaintiff, appellant, moving party, defendant or respondent that
17 files an action or appearance that is subject to the filing fees established
18 under subsection (2) of this section must include in the caption of the
19 pleading the following words: ‘Claim of not more than \$10,000.’

20 “(7) The fees imposed by this section do not apply to:

21 “(a) Protective proceedings under ORS chapter 125;

22 “(b) Proceedings for dissolution of marriage, annulment of marriage or
23 separation;

24 “(c) Filiation proceedings under ORS 109.124 to 109.230;

25 “(d) Proceedings to determine custody or support of a child under ORS
26 109.103;

27 “(e) Probate, adoption or change of name proceedings;

28 “(f) Proceedings involving dwelling units to which ORS chapter 90 applies
29 and for which the fee is provided by ORS 105.130; or

30 “(g) Any counterclaim, cross-claim or third-party claim filed by a party

1 who has appeared in the action or proceeding.

2 “(8) The fees described in this section shall not be charged to a district
3 attorney or to the Division of Child Support of the Department of Justice for
4 the filing of any case, motion, document, stipulated order, process or other
5 document relating to the provision of support enforcement services as de-
6 scribed in ORS 25.080.

7 “(9) The fees in this section do not apply to applications filed under
8 ORS 137.225 or 419A.262.

9 “**SECTION 5a.** The amendments to ORS 21.110 by section 5 of this
10 2009 Act apply only to filings and appearances under ORS 21.110 (1)
11 made on or after January 1, 2010.

12
13 **“HEARING FEES**

14
15 “**SECTION 6.** ORS 21.270 is amended to read:

16 “21.270. (1) In any civil action, suit or proceeding in the circuit court,
17 *[other than a protective proceeding under ORS chapter 125 or a probate,*
18 *adoption or change of name proceeding,]* trial fees shall be collected as pro-
19 vided in this section.

20 “(2) The clerk of the circuit court shall collect from the plaintiff,
21 appellant or moving party, for a trial on the merits without a jury, a trial
22 fee of [~~\$77~~] **\$150** for each full or partial day of the trial. The amount of the
23 fee for the first day of trial shall be collected in advance and is due and
24 payable when the action, suit or proceeding is set for trial. The amount of
25 the fee for subsequent days of trial shall be collected on the day the trial
26 concludes.

27 “(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial
28 by a jury of more than six persons, a jury trial fee of [~~\$193~~] **\$250** for each
29 full or partial day of the trial. The clerk shall collect from the plaintiff or
30 appellant, for a trial by a jury of six persons, a jury trial fee of [~~\$110~~] **\$175**

1 for each full or partial day of the trial. The amount of the fee for the first
2 day of trial shall be collected in advance and is due and payable when the
3 action, suit or proceeding is set for trial by jury. The amount of the fee for
4 subsequent days of trial shall be collected on the day the trial concludes.

5 “(b) If the plaintiff or appellant waives a trial by jury, and the defendant
6 or respondent desires a trial by jury, the clerk shall collect the jury trial fee
7 from the defendant or respondent, and not from the plaintiff or appellant.

8 “(c) A case in which the jury trial fee for the first day of trial has not
9 been paid shall be tried by the court without a jury, unless the court other-
10 wise orders. If a case in which the jury trial fee for the first day of trial has
11 not been paid is tried by a jury, the clerk shall tax against the losing party
12 the total amount of the jury trial fee. The jury trial fee constitutes a mone-
13 tary obligation payable to the court, and may be made part of the judgment
14 in the case by the clerk without further notice to the debtor or further order
15 of the court.

16 “(4) If a counterclaim, cross-claim or third party claim is tried on any day
17 other than a day on which the claim of the plaintiff is tried, the clerk shall
18 collect from the party asserting the counterclaim, cross-claim or third party
19 claim the trial fee or jury trial fee, whichever is applicable, for that day, and
20 shall not collect the applicable fee for that day from the plaintiff. If the
21 party asserting a counterclaim, cross-claim or third party claim waives a
22 trial by jury on the claim, and the party defending against the claim desires
23 a trial by jury on the claim, the clerk shall collect the jury trial fee from
24 the defending party and not from the asserting party.

25 “(5) The fees provided for in this section include any reporting of the trial
26 proceedings, but not the preparation of transcripts of a report.

27 “(6) Except as otherwise provided in subsection (3)(c) of this section, the
28 fees provided for in this section that are paid by a party shall be considered
29 costs and disbursements and may be taxed and collected as other costs and
30 disbursements by the prevailing party.

1 “(7) A court shall order that a trial fee paid under the provisions of this
2 section be refunded to the party that paid the fee if all claims in the action
3 or proceeding are decided without the commencement of a trial and the party
4 that paid the fee files a motion and affidavit requesting refund of the fee not
5 more than 15 days after entry of judgment disposing of the action or pro-
6 ceeding.

7 “**SECTION 6a. The amendments to ORS 21.270 by section 6 of this**
8 **2009 Act apply only to trials conducted on or after January 1, 2010.**

9 “**SECTION 7.** ORS 21.275 is amended to read:

10 “21.275. (1) In any civil action, suit or proceeding in the circuit court,
11 [*other than a protective proceeding under ORS chapter 125 or a probate,*
12 *adoption or change of name proceeding,*] hearing fees for reported hearings
13 shall be collected as provided in this section. There is no hearing fee under
14 this section for a hearing not reported.

15 “(2) As used in this section:

16 “(a) ‘Hearing’ means an actual appearance of one or more parties before
17 the court for an examination by the court without a jury, other than a trial
18 or during a trial for which a trial fee is required, of issues of fact or law
19 arising from a motion, application, petition or other document filed with the
20 court by a moving party, but does not include a conference solely for the
21 purpose of case settlement or case scheduling.

22 “(b) ‘Moving party’ means a party who files with the court a motion, ap-
23 plication, petition or other document referred to in paragraph (a) of this
24 subsection.

25 “(c) ‘Nonmoving party’ means a party other than a moving party.

26 “(3) The clerk of the circuit court shall collect the hearing fees. The fee
27 for a reported hearing is [~~\$33~~] **\$100** if the hearing period is not more than
28 three hours or [~~\$77~~] **\$175** if the hearing period is more than three hours. The
29 fee does not include the preparation of transcripts of a report.

30 “(4) If a hearing in respect to the document filed by the moving party is

1 required by statute or rule, the document shall indicate whether the moving
2 party requests that the hearing be reported, and if reporting is requested,
3 shall contain an estimate of the hearing period. If the moving party requests
4 reporting, the moving party shall pay the applicable hearing fee, based upon
5 the estimate of the hearing period, when the document is filed. If the moving
6 party does not request reporting and a nonmoving party files a request for
7 reporting with the court, the request shall contain an estimate of the hearing
8 period, and the nonmoving party shall pay the applicable hearing fee, based
9 upon the estimate of the hearing period, when the request is filed.

10 “(5) If a hearing in respect to the document filed by the moving party is
11 not required by statute or rule, the document shall indicate whether the
12 moving party requests a hearing. The document also shall indicate whether
13 the moving party requests that the hearing be reported, and if reporting is
14 requested, shall contain an estimate of the hearing period. If the moving
15 party requests reporting, the moving party shall pay the applicable hearing
16 fee, based upon the estimate of the hearing period, when the document is
17 filed. If the moving party does not request reporting and a nonmoving party
18 files a request for reporting with the court, the request shall contain an es-
19 timate of the hearing period, and the nonmoving party shall pay the appli-
20 cable hearing fee, based upon the estimate of the hearing period, when the
21 request is filed.

22 “(6) If a hearing in respect to the document filed by the moving party is
23 not required by statute or rule or requested by the moving party and a
24 nonmoving party files a request for hearing with the court, the request also
25 shall indicate whether the nonmoving party requests that the hearing be re-
26 ported, and if reporting is requested, shall contain an estimate of the hearing
27 period. If the nonmoving party requests reporting the nonmoving party shall
28 pay the applicable hearing fee, based upon the estimate of the hearing period,
29 when the request is filed. If the nonmoving party does not request reporting
30 and the moving party files a request for reporting with the court, the request

1 shall contain an estimate of the hearing period, and the moving party shall
2 pay the applicable hearing fee, based upon the estimate of the hearing period,
3 when the request is filed.

4 “(7) If a hearing in respect to the document filed by the moving party is
5 not required by statute or rule or requested by a party, but the court on its
6 own motion orders a hearing and a party files a request that the hearing be
7 reported with the court, the request shall contain an estimate of the hearing
8 period, and the party shall pay the applicable hearing fee, based upon the
9 estimate of the hearing period, when the request is filed. If the court on its
10 own motion orders a hearing, no party requests reporting and the court on
11 its own motion orders that the hearing be reported, the court order shall
12 contain an estimate of the hearing period, and each party shall pay an equal
13 proportionate share of the applicable hearing fee, based upon the estimate
14 of the hearing period, before the hearing is held.

15 “(8) No document containing a request for reporting or other request for
16 reporting referred to in subsections (4) to (7) of this section shall be deemed
17 filed unless the fee required by those subsections of the filing party is paid
18 by the party.

19 “(9) The fees provided for in this section that are paid by a party shall
20 be considered costs and disbursements and may be taxed and collected as
21 other costs and disbursements by the prevailing party.

22 **“SECTION 7a. The amendments to ORS 21.275 by section 7 of this**
23 **2009 Act apply only to hearings conducted on or after January 1, 2010.**
24

25 **“NAME CHANGE FEE**

26
27 **“SECTION 8. ORS 21.114 is amended to read:**

28 **“21.114. (1) In a court having jurisdiction, the clerk of the court shall**
29 **charge and collect:**

30 **“(a) In an adoption proceeding, a first appearance fee of \$39 from the**

1 party filing the petition for adoption, and a first appearance fee of \$39 from
2 an objecting party appearing separately or objecting parties appearing
3 jointly.

4 “(b) In a change of name proceeding, a first appearance fee of [~~\$39~~] **\$100**
5 from the party filing the application for change of name, and a first ap-
6 pearance fee of [~~\$39~~] **\$100** from an objecting party appearing separately or
7 objecting parties appearing jointly.

8 “(2) A pleading or other document shall be filed by the clerk only if the
9 fee required under this section is paid or if a request for a fee waiver or
10 deferral is granted by the court.

11 “(3) In any adoption or change of name proceeding in a court having ju-
12 risdiction, the clerk of the court shall charge and collect in advance from
13 the party having the affirmative of the issue, at the time the proceeding
14 comes on for trial or hearing upon the issues of fact or law involved therein,
15 a trial or hearing fee of \$39.

16 **“SECTION 8a. The amendments to ORS 21.114 by section 8 of this**
17 **2009 Act apply only to filings and appearances under ORS 21.114 (1)(b)**
18 **made on or after January 1, 2010.**

19
20 **“SMALL CLAIMS FEES**

21
22 **“SECTION 9. ORS 46.570 is amended to read:**

23 **“46.570. (1) In the small claims department of circuit court there shall be**
24 **charged and collected in civil cases by the clerk of the court the following**
25 **fees for the following purposes and services:**

26 **“(a)(A) Plaintiff filing a claim, [~~\$26~~] **\$50** when the amount or value**
27 **claimed does not exceed \$1,500, and [~~\$55~~] **\$100** when the amount or value**
28 **claimed exceeds \$1,500; and**

29 **“(B) Defendant demanding a hearing, [~~\$24~~] **\$50** when the amount or value**
30 **claimed by plaintiff does not exceed \$1,500, and [~~\$50~~] **\$100** when the amount**

1 or value claimed by plaintiff exceeds \$1,500.

2 “(b) Transcription of judgment from small claims department, \$7.

3 “(c) Transfer of cause to circuit court on counterclaim, \$12.

4 “(2) Except as otherwise provided in subsection (1) of this section, fees
5 provided for in this section shall be collected in advance. A pleading or other
6 document shall be filed by the clerk only if the required fee is paid or if a
7 request for a fee waiver or deferral is granted by the court. Fees provided
8 for in this section may not be refunded.

9 **“SECTION 9a. The amendments to ORS 46.570 by section 9 of this**
10 **2009 Act apply only to filings and demands for hearing under ORS**
11 **46.570 (1)(a) made on or after January 1, 2010.**

12

13 **“FORCIBLE ENTRY AND DETAINER FEES**

14

15 **“SECTION 10.** ORS 105.130 is amended to read:

16 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137
17 and 105.140 to 105.161, an action pursuant to ORS 105.110 shall be conducted
18 in all respects as other actions in courts of this state.

19 “(2) Upon filing a complaint in the case of a dwelling unit to which ORS
20 chapter 90 applies, the clerk shall:

21 “(a) Collect a filing fee of [~~\$13~~] **\$25**;

22 “(b) Collect any other fee authorized by law or ordinance; and

23 “(c) With the assistance of the plaintiff or an agent of the plaintiff,
24 complete the applicable summons and provide to the plaintiff or an agent of
25 the plaintiff sufficient copies of the summons and complaint for service.

26 “(3) After a complaint is filed under subsection (2) of this section, if the
27 defendant demands a trial, the plaintiff shall pay an additional filing fee of
28 \$29 and the defendant shall pay a filing fee of \$42.

29 “(4) An action pursuant to ORS 105.110 shall be brought in the name of
30 a person entitled to possession as plaintiff. The plaintiff may appear in per-

1 son or through an attorney. In an action to which ORS chapter 90 applies,
2 the plaintiff may also appear through a nonattorney who is an agent or em-
3 ployee of the plaintiff or an agent or employee of an agent of the plaintiff.

4 “(5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state
5 agency may appear in an action brought pursuant to ORS 105.110 through
6 an officer or employee of the agency if:

7 “(a) The Attorney General consents to the representation of the agency
8 by an officer or employee in the particular action or in the class of actions
9 that includes the particular action; and

10 “(b) The agency, by rule, authorizes an officer or employee to appear on
11 its behalf in the particular type of action being conducted.

12 “(6) In addition to the fees charged under subsection (2) of this section,
13 the clerk shall collect a surcharge from the plaintiff at the time a complaint
14 is filed that is subject to the filing fees established by subsection (2) of this
15 section and from a defendant at the time a defendant demands a trial in the
16 action. The surcharge shall be deposited by the State Court Administrator
17 into the State Treasury to the credit of the Housing and Community Services
18 Department Low Income Rental Housing Fund established by ORS 458.350.
19 The amount of the surcharge shall be \$10.

20 “(7) A document or pleading shall be filed by the clerk only if the fees
21 and surcharges required under this section are paid by the person filing the
22 document or pleading or if an application for a waiver or deferral of fees and
23 court costs is granted by the court under ORS 21.680 to 21.698. Fees and
24 surcharges provided for in this section may not be refunded.

25 **“SECTION 10a. The amendments to ORS 105.130 by section 10 of this**
26 **2009 Act apply only to filings made under ORS 105.130 on or after**
27 **January 1, 2010.**

28

29 **“SECURITY RELEASE DEPOSITS**

30

1 **SECTION 11.** ORS 135.265 is amended to read:

2 "135.265. (1) If the defendant is not released on personal recognizance
3 under ORS 135.255, or granted conditional release under ORS 135.260, or fails
4 to agree to the provisions of the conditional release, the magistrate shall set
5 a security amount that will reasonably assure the defendant's appearance.
6 The defendant shall execute the security release in the amount set by the
7 magistrate.

8 "(2) The defendant shall execute a release agreement and deposit with the
9 clerk of the court before which the proceeding is pending a sum of money
10 equal to 10 percent of the security amount, but in no event shall such deposit
11 be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon
12 depositing this sum the defendant shall be released from custody subject to
13 the condition that the defendant appear to answer the charge in the court
14 having jurisdiction on a day certain and thereafter as ordered by the court
15 until discharged or final order of the court. Once security has been given
16 and a charge is pending or is thereafter filed in or transferred to a court of
17 competent jurisdiction the latter court shall continue the original security
18 in that court subject to ORS 135.280 and 135.285. When conditions of the
19 release agreement have been performed and the defendant has been dis-
20 charged from all obligations in the cause, the clerk of the court shall return
21 to the person shown by the receipt to have made the deposit, unless the court
22 orders otherwise, 85 percent of the sum which has been deposited and shall
23 retain as security release costs 15 percent, but not less than \$5 [*nor more*
24 *than \$200*], of the amount deposited. The interest that has accrued on the full
25 amount deposited shall also be retained by the clerk. The amount retained
26 by the clerk of a circuit court shall be paid over as directed by the State
27 Court Administrator for deposit in the Criminal Fine and Assessment Ac-
28 count created under ORS 137.300. The amount retained by a justice of the
29 peace shall be deposited in the county treasury. The amount retained by the
30 clerk of a municipal court shall be deposited in the municipal corporation

1 treasury. At the request of the defendant the court may order whatever
2 amount is repayable to defendant from such security amount to be paid to
3 defendant's attorney of record.

4 "(3) Instead of the security deposit provided for in subsection (2) of this
5 section the defendant may deposit with the clerk of the court an amount
6 equal to the security amount in cash, stocks, bonds, or real or personal
7 property situated in this state with equity not exempt owned by the defend-
8 ant or sureties worth double the amount of security set by the magistrate.
9 The stocks, bonds, real or personal property shall in all cases be justified
10 by affidavit. The magistrate may further examine the sufficiency of the se-
11 curity as the magistrate considers necessary.

12

13 **"PAYMENT PLAN FOR MONETARY OBLIGATIONS UNDER**
14 **CRIMINAL JUDGMENT**

15

16 **"SECTION 12.** ORS 137.293 is amended to read:

17 "137.293. (1) All fines, costs, assessments, restitution, compensatory fines
18 and other monetary obligations imposed upon a convicted person in a circuit,
19 justice or municipal court, shall constitute a single obligation on the part
20 of the convicted person. The clerk shall subdivide the total obligation as
21 provided in ORS 137.295 according to the various component parts of the
22 obligation and shall credit and distribute accordingly, among those subdi-
23 visions, all moneys received.

24 **"(2) Any payment plan established by a court for monetary obli-**
25 **gations imposed in a criminal action does not affect the ability of the**
26 **Judicial Department to use any collection method, including tax in-**
27 **tercepts, that is otherwise available to the department.**

28

29

"TAX COURT FEES

30

1 **“SECTION 13.** ORS 305.490 is amended to read:

2 “305.490. (1) Plaintiffs or petitioners filing a complaint or petition in the
3 tax court shall pay a filing fee for each complaint or petition as follows:

4 “(a) For a complaint or petition in the magistrate division, [~~\$25~~] **\$75.**

5 “(b) For a complaint or petition in the regular division, [~~\$50~~] **\$150.**

6 “(c) If a complaint or petition is specially designated under ORS 305.501
7 for hearing in the regular division, a fee of [~~\$50~~] **\$150.**

8 “(2) Neither the State of Oregon, nor any county, school district, munic-
9 ipal corporation or other public corporation therein, nor any officer of any
10 such public political division or corporation, appearing in the representative
11 capacity of the officer of any public political division or corporation, shall
12 be required to pay the fee prescribed under this section. The party entitled
13 to costs and disbursements on such appeal shall recover from the opponent
14 of the party the amount so paid upon order of the court, as in equity suits
15 in the circuit court.

16 “(3)(a) If, in any proceeding before the tax court judge involving taxes
17 upon or measured by net income in which an individual taxpayer is a party,
18 or involving inheritance taxes, the court grants a refund claimed by the ex-
19 ecutor or taxpayer or denies in part or wholly an additional assessment of
20 taxes claimed by the Department of Revenue to be due from the estate or
21 taxpayer, the court may allow the taxpayer, in addition to costs and dis-
22 bursements, the following:

23 “(A) Reasonable attorney fees for the proceeding under this subsection
24 and for the prior proceeding in the matter, if any, before the magistrate; and

25 “(B) Reasonable expenses as determined by the court. Expenses include
26 accountant fees and fees of other experts incurred by the executor or indi-
27 vidual taxpayer in preparing for and conducting the proceeding before the
28 tax court judge and the prior proceeding in the matter, if any, before the
29 magistrate.

30 “(b) Payment of attorney fees or reasonable expenses under this sub-

1 section shall be made by the Department of Revenue in the manner provided
2 by ORS 305.790.

3 “(4)(a) If, in any proceeding before the tax court judge involving ad
4 valorem property taxation, exemptions, special assessments or omitted prop-
5 erty, the court finds in favor of the taxpayer, the court may allow the tax-
6 payer, in addition to costs and disbursements, the following:

7 “(A) Reasonable attorney fees for the proceeding under this subsection
8 and for the prior proceeding in the matter, if any, before the magistrate; and

9 “(B) Reasonable expenses as determined by the court. Expenses include
10 fees of experts incurred by the individual taxpayer in preparing for and
11 conducting the proceeding before the tax court judge and the prior proceed-
12 ing in the matter, if any, before the magistrate.

13 “(b) Payment of attorney fees or reasonable expenses under this sub-
14 section shall be made by the Department of Revenue in the manner provided
15 by ORS 305.790.

16 “(5) All fees and other moneys received or collected by the clerk by virtue
17 of the office of the clerk shall be paid over to the State Treasurer and shall
18 be held by the clerk in the General Fund as miscellaneous receipts.

19 **“SECTION 13a. The amendments to ORS 305.490 by section 13 of this**
20 **2009 Act apply only to filings under ORS 305.490 made on or after**
21 **January 1, 2010.**

22
23 **“MISCELLANEOUS FEES**
24

25 **“SECTION 14. ORS 21.325 is amended to read:**

26 “21.325. In the circuit court there shall be charged and collected in ad-
27 vance by the clerk of the court the following fees for the following purposes
28 and services:

29 “(1) Making transcription of a judgment entered in the register, \$7.

30 “(2) Filing and entering transcript of judgment, \$7.

1 “(3) Filing copy of foreign judgment and affidavit filed as provided in ORS
2 24.115 and 24.125 or copy of child custody determination of another state
3 filed as provided in ORS 109.787, \$39.

4 “(4) Issuing [*writs of execution or*] writs of garnishment, [~~\$12~~] **\$25** for each
5 writ.

6 **“(5) Issuing writs of execution, \$35 for each writ.**

7 “~~[(5)]~~ **(6)** Preparing a certified copy of a satisfaction document under ORS
8 18.225 (5), \$6.

9 “~~[(6)]~~ **(7)** Issuing an order under ORS 18.265 requiring a judgment debtor
10 to appear when the order is issued by any court other than the court in
11 which the original judgment was entered, \$4.

12 “~~[(7)]~~ **(8)** Issuing notices of restitution as provided in ORS 105.151, [~~\$3~~]
13 **\$15** for each notice.

14 “~~[(8)]~~ **(9)** For any service the clerk may be required or authorized to per-
15 form and for which no fee is provided by law, such fees as the Chief Justice
16 of the Supreme Court may establish or authorize, except that a fee may not
17 be charged for location or inspection of court records.

18 **“SECTION 14a. The amendments to ORS 21.325 by section 14 of this**
19 **2009 Act apply only to writs of garnishment, writs of execution and**
20 **notices of restitution issued on or after January 1, 2010.**

21
22 **“STATE JUDICIAL STABILIZATION FUND**

23
24 **“SECTION 15. (1) The State Judicial Stabilization Fund is estab-**
25 **lished, separate and distinct from the General Fund. Interest earned**
26 **by the State Judicial Stabilization Fund shall be credited to the fund.**
27 **The fund shall consist of amounts deposited in the fund under:**

28 **“(a) Section 16 of this 2009 Act;**

29 **“(b) Section 17 of this 2009 Act;**

30 **“(c) Section 18 of this 2009 Act;**

1 “(d) ORS 18.235 (12);
2 “(e) ORS 21.010 (2);
3 “(f) ORS 21.110 (1)(b);
4 “(g) ORS 21.310 (3)(b);
5 “(h) ORS 135.921 (3)(b);
6 “(i) ORS 137.225 (2)(c);
7 “(j) ORS 137.540 (7);
8 “(k) ORS 419A.262 (1); and
9 “(L) ORS 813.240 (2)(b).

10 “(2) All amounts in the State Judicial Stabilization Fund are con-
11 tinuously appropriated to the Judicial Department for the purpose of
12 paying expenses related to maintaining stable and equitable operation
13 of the state court system.

14 “(3) The department may accept gifts, grants or contributions from
15 any source, whether public or private, for deposit in the State Judicial
16 Stabilization Fund.

17
18 “EX PARTE ORDER OR JUDGMENT FEE
19

20 “SECTION 16. (1) In any civil proceeding subject to a fee under ORS
21 21.110, 21.111, 21.114 or 21.310, the clerk of a circuit court shall collect
22 the sum of \$10 for filing or submission of an ex parte order or judg-
23 ment for the purpose of signature by the judge and entry.

24 “(2) Fees collected under this section shall be deposited by the clerk
25 of the court in the State Judicial Stabilization Fund.

26 “SECTION 16a. The fee imposed under section 16 of this 2009 Act
27 applies only to ex parte orders or judgments filed or submitted on or
28 after January 1, 2010.

29
30 “SETTLEMENT CONFERENCE FEE

1 **“SECTION 19.** ORS 18.235 is amended to read:

2 “18.235. (1) A judgment debtor, or a person with an interest in real prop-
3 erty against which a judgment lien exists, may move the court for an order
4 declaring that a money award has been satisfied or for a determination of
5 the amount necessary to satisfy the money award, when the person making
6 the motion cannot otherwise obtain a satisfaction document from a judgment
7 creditor.

8 “(2) Motions under this section shall be filed in the action in which the
9 judgment was entered. All proceedings on the motion shall be conducted as
10 part of the action in which the judgment was entered. An appearance fee
11 may not be charged for filing a motion under this section.

12 “(3) A motion under this section must include the following information,
13 to the extent known to the person making the motion:

14 “(a) The date of entry and principal amount of the money award.

15 “(b) The rate of interest and the date the interest commenced to accrue.

16 “(c) The date or dates and amounts of any payments on the money award.

17 “(d) Any amount that the person believes remains to be paid on the money
18 award, including any supporting mathematical calculations.

19 “(e) Any other information necessary or helpful to the court in making
20 its determination.

21 “(4) A person making a motion under this section must serve the motion
22 on the judgment creditor. If the person making the motion is not the judg-
23 ment debtor, the person also must serve the motion and supporting affidavit
24 on the judgment debtor. If an assignment of judgment document has been
25 filed with the court under ORS 18.205, the motion must be served on the
26 person named as the assignee of the judgment. Service on the judgment
27 creditor and judgment debtor under this subsection may be made as provided
28 in ORCP 9 if the motion is filed within one year after entry of the judgment.
29 If the motion is filed more than one year after entry of the judgment, or
30 service is to be made on an assignee of the judgment, the motion may either

1 be personally served as provided in ORCP 7, or be served by certified mail,
2 return receipt requested with signed receipt. The court may waive service
3 on any person under this subsection if the person making the motion files
4 an affidavit with the court stating that the person cannot be found after
5 diligent effort by the person making the motion. The person making the
6 motion shall file proof of service with the court.

7 “(5) A person served with a motion under this section must file a response
8 within 21 days after service is made, or within such time as may be allowed
9 by the court. The response must specifically identify those assertions in the
10 motion that the person contests. The response must contain any information
11 or mathematical calculations necessary to support the contentions of the
12 responding party.

13 “(6) The court shall hear the motion not less than seven days after notice
14 of hearing is given to the person making the motion and to the parties served
15 with the motion. The court shall hear and determine the issues in a summary
16 fashion without a jury. The court shall give the parties a reasonable op-
17 portunity to present evidence relevant to any factual issues.

18 “(7) If the court determines that the person making the motion is entitled
19 to relief, the court shall issue an order providing that the money award has
20 been satisfied in full or, if the money award has not been satisfied in full,
21 the specific amount that will satisfy the judgment on a specific date or
22 within a period of time specified in the order.

23 “(8) If the court finds that the judgment creditor willfully failed to pro-
24 vide a satisfaction document under ORS 18.225, the court may render a sup-
25 plemental judgment awarding reasonable attorney fees to the person making
26 the motion. The supplemental judgment may provide that the person making
27 the motion may satisfy the judgment by paying such amounts the court de-
28 termines to be necessary to satisfy the judgment less that sum of money the
29 court awards as attorney fees.

30 “(9) If the court finds that the money award has been satisfied, or if the

1 amount specified by the court is paid to the court administrator within the
2 time specified by the court, the court administrator shall note in the register
3 and in the judgment lien record that the money award has been satisfied in
4 full. The court administrator shall deliver any money paid to the court ad-
5 ministrator to the party or parties specified in the court's order.

6 “(10) Upon request of the person making the motion, the court adminis-
7 trator shall issue a certificate indicating that the money award has been
8 satisfied. The certificate may be recorded in any County Clerk Lien Record
9 in which the judgment was recorded under ORS 18.152. Recording of the
10 certificate eliminates any judgment lien that was created by the recording
11 of the judgment.

12 “(11) At least five days before filing a motion under this section, the
13 person must serve by personal delivery or first class mail a copy of the mo-
14 tion on the Administrator of the Division of Child Support of the Department
15 of Justice, or on the branch office of the Department of Justice providing
16 support services to the county in which the motion will be made, if:

17 “(a) The motion relates to satisfaction of a support award; and

18 “(b) Child support rights, as defined in ORS 25.010, for the judgment
19 creditor have been assigned to the state.

20 “(12) **A person filing a motion under this section must pay a fee to**
21 **the court of \$50 at the time the motion is filed. Fees collected under**
22 **this subsection shall be deposited by the clerk of the court in the State**
23 **Judicial Stabilization Fund.**

24 “~~[(12)]~~ (13) This section does not apply to justice courts, municipal courts
25 or county courts performing judicial functions.

26 “**SECTION 19a. The amendments to ORS 18.235 by section 19 of this**
27 **2009 Act apply only to motions filed under ORS 18.235 on or after**
28 **January 1, 2010.**

29

30 “**PROBATE ACCOUNTING FEES**

1 **“SECTION 20.** ORS 21.310 is amended to read:

2 “21.310. (1) Except as provided in ORS 114.515, in a court having probate
3 jurisdiction, the clerk of the court shall charge and collect the following fees
4 for the filing of the initial documents in any probate proceeding, including
5 petitions for the appointment of personal representatives, probate of wills
6 and contest of wills, or in any conservatorship proceeding:

7 “
8

Where the amount of the estate is:

- 9 1. Not more than \$10,000—a fee of \$23.
10 2. More than \$10,000 and not more than \$25,000—a fee of \$77.
11 3. More than \$25,000 and not more than \$50,000—a fee of \$154.
12 4. More than \$50,000 and not more than \$100,000—a fee of \$231.
13 5. More than \$100,000 and not more than \$500,000—a fee of \$308.
14 6. More than \$500,000 and not more than \$1,000,000—a fee of \$385.
15 7. More than \$1,000,000—a fee of \$462.

16 “
17

“**(2) In a circuit court, the clerk shall charge and collect the fol-**
18 **lowing fees for the filing of an annual or final accounting in a probate**
19 **proceeding or a conservatorship proceeding:**

20 “
21

Where the amount of the estate is:

- 22 1. Not more than \$500,000—a fee of \$100.
23 2. More than \$500,000 and not more than \$1 million—a fee of \$200.
24 3. More than \$1 million—a fee of \$300.

25 “
26

“**[(2)] (3)(a)** In determining fees under [*subsection (1)*] **subsections (1)**
27 **and (2)** of this section in a probate proceeding, the amount of a settlement
28 in a wrongful death action brought for the benefit of the decedent’s surviving
29 spouse or dependents is not part of the estate.

30 “**(b) Fees collected under subsection (2) of this section shall be de-**

1 **posited by the clerk of the court in the State Judicial Stabilization**
2 **Fund.**

3 “[3] (4) In a court having probate jurisdiction, the clerk shall charge
4 and collect a fee of \$23 for the filing of the initial documents in any
5 guardianship proceeding.

6 “[4] (5) In a court having probate jurisdiction, the clerk shall charge
7 and collect a fee of \$8 at the time of filing a will without a petition for
8 probate.

9 “[5] (6) At the time of filing any answer, motion or objection in a pro-
10 bate proceeding or protective proceeding under ORS chapter 125, the party
11 filing the answer, motion or objection shall pay a fee of \$19 to the clerk.

12 “[6] (7) A pleading or other document shall be filed by the clerk only
13 if the fee required under this section is paid or if a request for a fee waiver
14 or deferral is granted by the court.

15 “[7] (8) In any probate proceeding or protective proceeding under ORS
16 chapter 125 in a court having probate jurisdiction, the clerk shall charge and
17 collect in advance from the party having the affirmative of the issue, at the
18 time the proceeding comes on for trial or hearing upon the issues of fact or
19 law involved therein, a trial or hearing fee of \$39.

20 **“SECTION 20a. The amendments to ORS 21.310 by section 20 of this**
21 **2009 Act apply only to accountings filed on or after January 1, 2010.**

22 **“SECTION 21. ORS 125.060 is amended to read:**

23 “125.060. (1) The notices required by this section must be given to all
24 persons whose identities and addresses can be ascertained in the exercise of
25 reasonable diligence by the person required to give the notice.

26 “(2) Notice of the filing of a petition for the appointment of a fiduciary
27 or entry of other protective order must be given by the petitioner to the
28 following persons:

29 “(a) The respondent, if the respondent has attained 14 years of age.

30 “(b) The spouse, parents and adult children of the respondent.

1 “(c) If the respondent does not have a spouse, parent or adult child, the
2 person or persons most closely related to the respondent.

3 “(d) Any person who is cohabiting with the respondent and who is inter-
4 ested in the affairs or welfare of the respondent.

5 “(e) Any person who has been nominated as fiduciary or appointed to act
6 as fiduciary for the respondent by a court of any state, any trustee for a
7 trust established by or for the respondent, any person appointed as a health
8 care representative under the provisions of ORS 127.505 to 127.660 and any
9 person acting as attorney-in-fact for the respondent under a power of attor-
10 ney.

11 “(f) If the respondent is a minor, the person who has exercised principal
12 responsibility for the care and custody of the respondent during the 60-day
13 period before the filing of the petition.

14 “(g) If the respondent is a minor and has no living parents, any person
15 nominated to act as fiduciary for the minor in a will or other written in-
16 strument prepared by a parent of the minor.

17 “(h) If the respondent is receiving moneys paid or payable by the United
18 States through the Department of Veterans Affairs, a representative of the
19 United States Department of Veterans Affairs regional office that has re-
20 sponsibility for the payments to the protected person.

21 “(i) If the respondent is receiving moneys paid or payable for public as-
22 sistance provided under ORS chapter 411 or 414 by the State of Oregon
23 through the Department of Human Services, a representative of the depart-
24 ment.

25 “(j) If the respondent is committed to the legal and physical custody of
26 the Department of Corrections, the Attorney General and the superintendent
27 or other officer in charge of the facility in which the respondent is confined.

28 “(k) If the respondent is a foreign national, the consulate for the re-
29 spondent's country.

30 “(L) Any other person that the court requires.

1 “(3) Notice of a motion for the termination of the protective proceedings,
2 for removal of a fiduciary, for modification of the powers or authority of a
3 fiduciary, for approval of a fiduciary’s actions or for protective orders in
4 addition to those sought in the petition must be given by the person making
5 the motion to the following persons:

6 “(a) The protected person, if the protected person has attained 14 years
7 of age.

8 “(b) Any person who has filed a request for notice in the proceedings.

9 “(c) Except for a fiduciary who is making a motion, any fiduciary who
10 has been appointed for the protected person.

11 “(d) If the protected person is receiving moneys paid or payable by the
12 United States through the Department of Veterans Affairs, a representative
13 of the United States Department of Veterans Affairs regional office that has
14 responsibility for the payments to the protected person.

15 “(e) If the protected person is committed to the legal and physical custody
16 of the Department of Corrections, the Attorney General and the superinten-
17 dent or other officer in charge of the facility in which the protected person
18 is confined.

19 “(f) Any other person that the court requires.

20 “(4) A request for notice under subsection (3)(b) of this section must be
21 in writing and include the name, address and phone number of the person
22 requesting notice. A copy of the request must be mailed by the person mak-
23 ing the request to the petitioner or to the fiduciary if a fiduciary has been
24 appointed. The original request must be filed with the court. The person fil-
25 ing the request must pay the fee specified by ORS 21.310 [(5)] (6).

26 “(5) A person who files a request for notice in the proceedings in the
27 manner provided by subsection (4) of this section is entitled to receive notice
28 from the fiduciary of any motion specified in subsection (3) of this section
29 and of any other matter to which a person listed in subsection (2) of this
30 section is entitled to receive notice under a specific provision of this chapter.

1 “(6) If the Department of Human Services is nominated as guardian for
2 the purpose of consenting to the adoption of a minor, the notice provided for
3 in this section must also be given to the minor’s brothers, sisters, aunts,
4 uncles and grandparents.

5 “(7) In addition to the requirements of subsection (2) of this section, no-
6 tice of the filing of a petition for the appointment of a guardian for a person
7 who is alleged to be incapacitated must be given by the petitioner to the
8 following persons:

9 “(a) Any attorney who is representing the respondent in any capacity.

10 “(b) If the respondent is a resident of a nursing home or residential fa-
11 cility, or if the person nominated to act as fiduciary intends to place the
12 respondent in a nursing home or residential facility, the office of the Long
13 Term Care Ombudsman.

14 “(c) If the respondent is a resident of a mental health treatment facility
15 or a residential facility for individuals with developmental disabilities, or if
16 the person nominated to act as fiduciary intends to place the respondent in
17 such a facility, the system described in ORS 192.517 (1).

18 “(8) In addition to the requirements of subsection (3) of this section, in
19 a protective proceeding in which a guardian has been appointed, notice of
20 the motions specified in subsection (3) of this section must be given by the
21 person making the motion to the following persons:

22 “(a) Any attorney who represented the protected person at any time dur-
23 ing the protective proceeding.

24 “(b) If the protected person is a resident of a nursing home or residential
25 facility, or if the motion seeks authority to place the protected person in a
26 nursing home or residential facility, the office of the Long Term Care Om-
27 budsman.

28 “(c) If the protected person is a resident of a mental health treatment
29 facility or a residential facility for individuals with developmental disabili-
30 ties, or if the motion seeks authority to place the protected person in such

1 a facility, the system described in ORS 192.517 (1).

2 “(9) A respondent or protected person may not waive the notice required
3 under this section.

4 “(10) The requirement that notice be served on an attorney for a re-
5 spondent or protected person under subsection (7)(a) or (8)(a) of this section
6 does not impose any responsibility on the attorney receiving the notice to
7 represent the respondent or protected person in the protective proceeding.

8

9 **“DIVERSION PROGRAM ADMINISTRATION FEE**

10

11 **“SECTION 22.** ORS 135.921 is amended to read:

12 “135.921. (1) The filing fee paid by a defendant at the time of filing a pe-
13 tition for a possession of marijuana diversion agreement as provided in ORS
14 135.909 shall be \$233 and shall be ordered paid as follows if the petition is
15 allowed:

16 “(a) \$123 to the Department of Revenue for deposit in the Criminal Fine
17 and Assessment Account; and

18 “(b) \$110 to be distributed as provided for the disposition of costs under
19 ORS 153.630.

20 “(2) If less than the \$233 filing fee is paid to the court by the defendant
21 under subsection (1) of this section, the money actually received shall be
22 allocated in the amounts provided first to the State Treasurer and the re-
23 mainder as provided for the disposition of costs under ORS 153.630.

24 “(3) In addition to the filing fee under subsection (1) of this section, the
25 court shall order the defendant to pay:

26 “(a) \$90 directly to the agency or organization providing the diagnostic
27 assessment; and

28 “(b) \$100 to the court as a **program administration fee. Fees col-**
29 **lected under this paragraph shall be deposited by the clerk of the court**
30 **in the State Judicial Stabilization Fund.**

1 **“SECTION 24.** ORS 137.225 is amended to read:

2 “137.225. (1)(a) At any time after the lapse of three years from the date
3 of pronouncement of judgment, any defendant who has fully complied with
4 and performed the sentence of the court and whose conviction is described
5 in subsection (5) of this section by motion may apply to the court where the
6 conviction was entered for entry of an order setting aside the conviction; or

7 “(b) At any time after the lapse of one year from the date of any arrest,
8 if no accusatory instrument was filed, or at any time after an acquittal or
9 a dismissal of the charge, the arrested person may apply to the court that
10 would have jurisdiction over the crime for which the person was arrested,
11 for entry of an order setting aside the record of the arrest. For the purpose
12 of computing the one-year period, time during which the arrested person has
13 secreted himself or herself within or without the state is not included.

14 “(2)(a) A copy of the motion and a full set of the defendant’s fingerprints
15 shall be served upon the office of the prosecuting attorney who prosecuted
16 the crime or violation, or who had authority to prosecute the charge if there
17 was no accusatory instrument filed, and opportunity shall be given to contest
18 the motion. The fingerprint card with the notation ‘motion for setting aside
19 conviction,’ or ‘motion for setting aside arrest record’ as the case may be,
20 shall be forwarded to the Department of State Police bureau of criminal
21 identification. Information resulting from the fingerprint search along with
22 the fingerprint card shall be returned to the prosecuting attorney.

23 “(b) When a prosecuting attorney is served with a copy of a motion to set
24 aside a conviction under this section, the prosecuting attorney shall provide
25 a copy of the motion and notice of the hearing date to the victim, if any, of
26 the crime by mailing a copy of the motion and notice to the victim’s last-
27 known address.

28 **“(c) A person making an application under subsection (1) of this**
29 **section must pay a fee to the court of \$100 at the time the application**
30 **is filed. Fees collected under this paragraph shall be deposited by the**

1 **clerk of the court in the State Judicial Stabilization Fund.**

2 “[(c)] (d) **In addition to the fee required under subsection (1)(c) of**
3 **this section,** when a person makes [*a motion*] **an application** under sub-
4 section (1)(a) of this section, the person must pay a fee of \$80. The person
5 shall attach a certified check payable to the Department of State Police in
6 the amount of \$80 to the fingerprint card that is served upon the prosecuting
7 attorney. The office of the prosecuting attorney shall forward the check
8 with the fingerprint card to the Department of State Police bureau of crim-
9 inal identification.

10 “(3) Upon hearing the motion, the court may require the filing of such
11 affidavits and may require the taking of such proofs as it deems proper. The
12 court shall allow the victim to make a statement at the hearing. Except as
13 otherwise provided in subsection (11) of this section, if the court determines
14 that the circumstances and behavior of the applicant from the date of con-
15 viction, or from the date of arrest as the case may be, to the date of the
16 hearing on the motion warrant setting aside the conviction, or the arrest
17 record as the case may be, it shall enter an appropriate order that shall state
18 the original arrest charge and the conviction charge, if any and if different
19 from the original, date of charge, submitting agency and disposition. The
20 order shall further state that positive identification has been established by
21 the bureau and further identified as to state bureau number or submitting
22 agency number. Upon the entry of the order, the applicant for purposes of
23 the law shall be deemed not to have been previously convicted, or arrested
24 as the case may be, and the court shall issue an order sealing the record of
25 conviction and other official records in the case, including the records of
26 arrest whether or not the arrest resulted in a further criminal proceeding.

27 “(4) The clerk of the court shall forward a certified copy of the order to
28 such agencies as directed by the court. A certified copy must be sent to the
29 Department of Corrections when the person has been in the custody of the
30 Department of Corrections. Upon entry of the order, the conviction, arrest

1 or other proceeding shall be deemed not to have occurred, and the applicant
2 may answer accordingly any questions relating to its occurrence.

3 “(5) The provisions of subsection (1)(a) of this section apply to a con-
4 viction of:

5 “(a) A Class C felony, except for criminal mistreatment in the first degree
6 under ORS 163.205 when it would constitute child abuse, as defined in ORS
7 419B.005, or any sex crime.

8 “(b) The crime of possession of the narcotic drug marijuana when that
9 crime was punishable as a felony only.

10 “(c) A crime punishable as either a felony or a misdemeanor, in the dis-
11 cretion of the court, except for:

12 “(A) Any sex crime; and

13 “(B) The following crimes when they would constitute child abuse as de-
14 fined in ORS 419B.005:

15 “(i) Criminal mistreatment in the first degree under ORS 163.205; and

16 “(ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

17 “(d) A misdemeanor, including a violation of a municipal ordinance, for
18 which a jail sentence may be imposed, except for endangering the welfare
19 of a minor under ORS 163.575 (1)(a) when it would constitute child abuse,
20 as defined in ORS 419B.005, or any sex crime.

21 “(e) A violation, whether under state law or local ordinance.

22 “(f) An offense committed before January 1, 1972, that if committed after
23 that date would be:

24 “(A) A Class C felony, except for any sex crime or for the following
25 crimes when they would constitute child abuse as defined in ORS 419B.005:

26 “(i) Criminal mistreatment in the first degree under ORS 163.205; and

27 “(ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

28 “(B) A crime punishable as either a felony or a misdemeanor, in the dis-
29 cretion of the court, except for any sex crime or for the following crimes
30 when they would constitute child abuse as defined in ORS 419B.005:

1 “(i) Criminal mistreatment in the first degree under ORS 163.205; and

2 “(ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

3 “(C) A misdemeanor, except for endangering the welfare of a minor under
4 ORS 163.575 (1)(a) when it would constitute child abuse, as defined in ORS
5 419B.005, or any sex crime.

6 “(D) A violation.

7 “(6) Notwithstanding subsection (5) of this section, the provisions of sub-
8 section (1) of this section do not apply to:

9 “(a) A person convicted of, or arrested for, a state or municipal traffic
10 offense.

11 “(b) A person convicted, within the 10-year period immediately preceding
12 the filing of the motion pursuant to subsection (1) of this section, of any
13 other offense, excluding motor vehicle violations, whether or not the other
14 conviction is for conduct associated with the same criminal episode that
15 caused the arrest or conviction that is sought to be set aside. Notwith-
16 standing subsection (1) of this section, a conviction that has been set aside
17 under this section shall be considered for the purpose of determining whether
18 this paragraph is applicable.

19 “(c) A person who at the time the motion authorized by subsection (1) of
20 this section is pending before the court is under charge of commission of any
21 crime.

22 “(7) The provisions of subsection (1)(b) of this section do not apply to a
23 person arrested within the three-year period immediately preceding the filing
24 of the motion for any offense, excluding motor vehicle violations, and ex-
25 cluding arrests for conduct associated with the same criminal episode that
26 caused the arrest that is sought to be set aside.

27 “(8) The provisions of subsection (1) of this section apply to convictions
28 and arrests that occurred before, as well as those that occurred after, Sep-
29 tember 9, 1971. There is no time limit for making an application.

30 “(9) For purposes of any civil action in which truth is an element of a

1 claim for relief or affirmative defense, the provisions of subsection (3) of this
2 section providing that the conviction, arrest or other proceeding be deemed
3 not to have occurred do not apply and a party may apply to the court for
4 an order requiring disclosure of the official records in the case as may be
5 necessary in the interest of justice.

6 “(10) Upon motion of any prosecutor or defendant in a case involving re-
7 cords sealed under this section, supported by affidavit showing good cause,
8 the court with jurisdiction may order the reopening and disclosure of any
9 records sealed under this section for the limited purpose of assisting the in-
10 vestigation of the movant. However, such an order has no other effect on the
11 orders setting aside the conviction or the arrest record.

12 “(11) Unless the court makes written findings by clear and convincing
13 evidence that granting the motion would not be in the best interests of jus-
14 tice, the court shall grant the motion and enter an order as provided in
15 subsection (3) of this section if the defendant has been convicted of one of
16 the following crimes and is otherwise eligible for relief under this section:

17 “(a) Abandonment of a child, ORS 163.535.

18 “(b) Attempted assault in the second degree, ORS 163.175.

19 “(c) Assault in the third degree, ORS 163.165.

20 “(d) Coercion, ORS 163.275.

21 “(e) Criminal mistreatment in the first degree, ORS 163.205.

22 “(f) Attempted escape in the first degree, ORS 162.165.

23 “(g) Incest, ORS 163.525, if the victim was at least 18 years of age.

24 “(h) Intimidation in the first degree, ORS 166.165.

25 “(i) Attempted kidnapping in the second degree, ORS 163.225.

26 “(j) Criminally negligent homicide, ORS 163.145.

27 “(k) Attempted robbery in the second degree, ORS 164.405.

28 “(L) Robbery in the third degree, ORS 164.395.

29 “(m) Supplying contraband, ORS 162.185.

30 “(n) Unlawful use of a weapon, ORS 166.220.

1 “(12) As used in this section, ‘sex crime’ has the meaning given that term
2 in ORS 181.594.

3 “**SECTION 24a.** The amendments to ORS 137.225 by section 24 of this
4 2009 Act apply only to applications made under ORS 137.225 (1) on or
5 after January 1, 2010.

6 “**SECTION 25.** ORS 419A.262 is amended to read:

7 “419A.262. (1) An expunction proceeding shall be commenced **by filing**
8 **an application** in the county where the subject person resided at the time
9 of the most recent termination. **A fee of \$100 must be paid to the court**
10 **when the application is filed. Fees collected under this subsection shall**
11 **be deposited by the clerk of the court in the State Judicial Stabiliza-**
12 **tion Fund.**

13 “(2) Upon application of either a person who is the subject of a record
14 or a juvenile department, or upon its own motion, the juvenile court shall
15 order expunction if, after a hearing when the matter is contested, it finds
16 that:

17 “(a) At least five years have elapsed since the date of the person’s most
18 recent termination;

19 “(b) Since the date of the most recent termination, the person has not
20 been convicted of a felony or a Class A misdemeanor;

21 “(c) No proceedings seeking a criminal conviction or an adjudication in
22 a juvenile court are pending against the person;

23 “(d) The person is not within the jurisdiction of any juvenile court on the
24 basis of a petition alleging an act or behavior as defined in ORS 419B.100
25 (1)(a) to (c) and (f) or 419C.005; and

26 “(e) The juvenile department is not aware of any pending investigation
27 of the conduct of the person by any law enforcement agency.

28 “(3) In the case of an application by the juvenile department or of the
29 court acting upon its own motion, expunction shall not be ordered if actual
30 notice of expunction has not been given to the person in accordance with

1 subsection (10) of this section unless the person has reached 21 years of age.

2 “(4) When a person who is the subject of a record kept by a juvenile court
3 or juvenile department reaches 18 years of age, the juvenile court, after a
4 hearing when the matter is contested, shall order expunction if:

5 “(a) The person never has been found to be within the jurisdiction of the
6 court; or

7 “(b) The conditions of subsection (2) of this section have been met.

8 “(5) Expunction shall not be ordered under this section if actual notice
9 of expunction has not been given to the person in accordance with subsection
10 (10) of this section unless the person has reached 21 years of age.

11 “(6) Subsections (4) and (5) of this section apply only to cases resulting
12 in termination after September 13, 1975.

13 “(7) Notwithstanding subsections (2) and (4) to (6) of this section, upon
14 application of a person who is the subject of a record kept by a juvenile
15 court or juvenile department, upon application of the juvenile department,
16 or upon its own motion, the juvenile court, after a hearing when the matter
17 is contested, may order expunction of all or any part of the person’s record
18 if it finds that to do so would be in the best interests of the person and the
19 public. In the case of an application by the juvenile department or of the
20 court acting upon its own motion, expunction shall not be ordered if actual
21 notice of expunction has not been given to the person in accordance with
22 subsection (10) of this section unless the person has reached 21 years of age.

23 “(8) When an expunction proceeding is commenced by application of the
24 person whose records are to be expunged, the person shall set forth as part
25 of the application the names of the juvenile courts, juvenile departments,
26 institutions and law enforcement and other agencies that the person has
27 reason to believe possess an expungible record of the person. The juvenile
28 department shall provide the names and addresses of the juvenile courts,
29 juvenile departments, institutions and law enforcement and other agencies
30 that a reasonable search of department files indicates have expungible re-

1 cords.

2 “(9) When an expunction proceeding is commenced by application of the
3 juvenile department or upon the court’s own motion, the application or mo-
4 tion shall set forth the names and addresses of the juvenile courts, juvenile
5 departments, institutions and law enforcement and other agencies that a
6 reasonable search of department files indicates have expungible records and
7 those provided by the subject person.

8 “(10)(a) Notice and a copy of an application for expunction under sub-
9 sections (2) to (7) of this section shall be given to:

10 “(A) The district attorney of the county in which the expunction pro-
11 ceeding is commenced and the district attorney of each county in which the
12 record sought to be expunged is kept; and

13 “(B) The person who is the subject of the record if the person has not
14 initiated the expunction proceeding.

15 “(b) A district attorney who receives notice under this subsection shall
16 notify the victim of the acts that resulted in the disposition that is the sub-
17 ject of the application for expunction and shall mail a copy of the applica-
18 tion for expunction to the victim’s last known address.

19 “(11) Within 30 days of receiving the notice of application for expunction
20 under subsection (10) of this section, a district attorney shall give written
21 notice of any objection and the grounds therefor to the person whose records
22 are to be expunged and to the juvenile court. If no objection is filed the
23 court may decide the issue of expunction either without a hearing or after
24 full hearing pursuant to subsections (12) to (15) of this section.

25 “(12) When an expunction is pending pursuant to subsections (2) to (7)
26 of this section, the court may proceed with or without a hearing, except that:

27 “(a) The court may not enter an expunction judgment without a hearing
28 if a timely objection to expunction has been filed pursuant to subsection (11)
29 of this section; and

30 “(b) The court may not deny an expunction without a hearing if the pro-

1 ceeding is based on an application of the subject.

2 “(13)(a) Notice of a hearing on a pending expunction shall be served on
3 the subject and any district attorney filing a timely objection pursuant to
4 subsection (11) of this section.

5 “(b) When a district attorney receives notice of a hearing for expunction
6 of a record concerning a youth or youth offender proceeding under ORS
7 chapter 419C, if the victim of the acts that resulted in the disposition that
8 is the subject of the application for expunction requests, the district attorney
9 shall mail notice of the hearing to the victim’s last-known address.

10 “(14) The court shall conduct a hearing on a pending expunction in accord
11 with the provisions of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208,
12 419B.310, 419B.812 to 419B.839 and 419B.908. Rules of evidence shall be as in
13 a hearing to establish juvenile court jurisdiction and as defined in ORS
14 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party
15 contesting expunction.

16 “(15) At the conclusion of a hearing on a pending expunction, the court
17 shall issue judgment granting or denying expunction.

18 “(16) The juvenile court or juvenile department shall send a copy of an
19 expunction judgment to each agency subject to the judgment. Upon receipt
20 of a copy of the judgment, the agency shall comply and, within 21 days of
21 the date of receipt, return the copy to the juvenile court or juvenile depart-
22 ment with an indorsement indicating compliance.

23 “(17) When all agencies subject to an expunction judgment have indicated
24 their compliance or in any event no later than six weeks following the date
25 the judgment was delivered as required by subsection (16) of this section, the
26 juvenile court shall provide the person who is the subject of the record with
27 a copy of the expunction judgment, a list of complying and noncomplying
28 agencies, and a written notice of rights and effects of expunction. The juve-
29 nile court and juvenile department then shall expunge forthwith all records
30 which they possess and which are subject to the judgment, except the ori-

1 ginal expunction judgment and the list of complying and noncomplying
2 agencies which must be preserved under seal.

3 “(18) In addition to those agencies identified in ORS 419A.260 (1)(d), the
4 juvenile, circuit, municipal and justice courts, and the district and city at-
5 torneys of this state, are bound by an expunction judgment of any juvenile
6 court of appropriate jurisdiction in this state issuing an expunction judg-
7 ment.

8 “(19) Upon entry of an expunction judgment, the contact that is the sub-
9 ject of the expunged record shall not be disclosed by any agency. An agency
10 that is subject to an expunction judgment shall respond to any inquiry about
11 the contact by indicating that no record or reference concerning the contact
12 exists.

13 “(20) A person who is the subject of a record that has been expunged
14 under this section may assert that the record never existed and that the
15 contact, which was the subject of the record, never occurred without incur-
16 ring a penalty for perjury or false swearing under the laws of this state.

17 “(21) Juvenile courts, by court rule or by order related to a particular
18 matter, may direct that records concerning a subject person be destroyed.
19 No such records shall be destroyed until at least three years have elapsed
20 after the date of the subject’s most recent termination. In the event the re-
21 cord has been expunged, the expunction judgment and list of complying and
22 noncomplying agencies may not be destroyed, but shall be preserved under
23 seal. The destruction of records under this subsection does not constitute
24 expunction.

25 “(22) An expunction judgment and list of complying and noncomplying
26 agencies shall be released from confidentiality only on order of the court
27 originating the expunction judgment, based on a finding that review of a
28 particular case furthers compliance with the expunction provisions of this
29 chapter.

30 “(23) A subject has a right of action against any person who intentionally

1 violates the confidentiality provisions of this section. In any such proceed-
2 ing, punitive damages up to an amount of \$1,000 may be sought in addition
3 to any actual damages. The prevailing party shall be entitled to costs and
4 reasonable attorney fees.

5 “(24) Intentional violation of the confidentiality provisions of this section
6 by a public employee is cause for dismissal.

7 “(25) A person who intentionally releases all or part of an expunged re-
8 cord commits a Class C misdemeanor.

9 **“SECTION 25a. The amendments to ORS 419A.262 by section 25 of**
10 **this 2009 Act apply only to applications made under ORS 419A.262 (1)**
11 **on or after January 1, 2010.**

12
13 **“BENCH PROBATION FEES AND PROBATION**
14 **VIOLATION ASSESSMENTS**

15
16 **“SECTION 26.** ORS 137.540 is amended to read:

17 “137.540. (1) The court may sentence the defendant to probation subject
18 to the following general conditions unless specifically deleted by the court.
19 The probationer shall:

20 “(a) Pay supervision fees, fines, restitution or other fees ordered by the
21 court.

22 “(b) Not use or possess controlled substances except pursuant to a medical
23 prescription.

24 “(c) Submit to testing of breath or urine for controlled substance or al-
25cohol use if the probationer has a history of substance abuse or if there is
26 a reasonable suspicion that the probationer has illegally used controlled
27 substances.

28 “(d) Participate in a substance abuse evaluation as directed by the
29 supervising officer and follow the recommendations of the evaluator if there
30 are reasonable grounds to believe there is a history of substance abuse.

1 “(e) Remain in the State of Oregon until written permission to leave is
2 granted by the Department of Corrections or a county community corrections
3 agency.

4 “(f) If physically able, find and maintain gainful full-time employment,
5 approved schooling, or a full-time combination of both. Any waiver of this
6 requirement must be based on a finding by the court stating the reasons for
7 the waiver.

8 “(g) Change neither employment nor residence without prior permission
9 from the Department of Corrections or a county community corrections
10 agency.

11 “(h) Permit the parole and probation officer to visit the probationer or
12 the probationer’s work site or residence and to conduct a walk-through of
13 the common areas and of the rooms in the residence occupied by or under
14 the control of the probationer.

15 “(i) Consent to the search of person, vehicle or premises upon the request
16 of a representative of the supervising officer if the supervising officer has
17 reasonable grounds to believe that evidence of a violation will be found, and
18 submit to fingerprinting or photographing, or both, when requested by the
19 Department of Corrections or a county community corrections agency for
20 supervision purposes.

21 “(j) Obey all laws, municipal, county, state and federal.

22 “(k) Promptly and truthfully answer all reasonable inquiries by the De-
23 partment of Corrections or a county community corrections agency.

24 “(L) Not possess weapons, firearms or dangerous animals.

25 “(m) If recommended by the supervising officer, successfully complete a
26 sex offender treatment program approved by the supervising officer and
27 submit to polygraph examinations at the direction of the supervising officer
28 if the probationer:

29 “(A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

30 “(B) Was previously convicted of a sex offense under ORS 163.305 to

1 163.467; or

2 “(C) Was previously convicted in another jurisdiction of an offense that
3 would constitute a sex offense under ORS 163.305 to 163.467 if committed in
4 this state.

5 “(n) Participate in a mental health evaluation as directed by the super-
6 vising officer and follow the recommendation of the evaluator.

7 “(o) Report as required and abide by the direction of the supervising of-
8 ficer.

9 “(p) If required to report as a sex offender under ORS 181.596, report with
10 the Department of State Police, a chief of police, a county sheriff or the
11 supervising agency:

12 “(A) When supervision begins;

13 “(B) Within 10 days of a change in residence;

14 “(C) Once each year within 10 days of the probationer’s date of birth;

15 “(D) Within 10 days of the first day the person works at, carries on a
16 vocation at or attends an institution of higher education; and

17 “(E) Within 10 days of a change in work, vocation or attendance status
18 at an institution of higher education.

19 “(2) In addition to the general conditions, the court may impose any spe-
20 cial conditions of probation that are reasonably related to the crime of con-
21 viction or the needs of the probationer for the protection of the public or
22 reformation of the probationer, or both, including, but not limited to, that
23 the probationer shall:

24 “(a) For crimes committed prior to November 1, 1989, and misdemeanors
25 committed on or after November 1, 1989, be confined to the county jail or
26 be restricted to the probationer’s own residence or to the premises thereof,
27 or be subject to any combination of such confinement and restriction, such
28 confinement or restriction or combination thereof to be for a period not to
29 exceed one year or one-half of the maximum period of confinement that could
30 be imposed for the offense for which the defendant is convicted, whichever

1 is the lesser.

2 “(b) For felonies committed on or after November 1, 1989, be confined in
3 the county jail, or be subject to other custodial sanctions under community
4 supervision, or both, as provided by rules of the Oregon Criminal Justice
5 Commission.

6 “(c) For crimes committed on or after December 5, 1996, sell any assets
7 of the probationer as specifically ordered by the court in order to pay
8 restitution.

9 “(3) When a person who is a sex offender is released on probation, the
10 court shall impose as a special condition of probation that the person not
11 reside in any dwelling in which another sex offender who is on probation,
12 parole or post-prison supervision resides, without the approval of the per-
13 son’s supervising parole and probation officer, or in which more than one
14 other sex offender who is on probation, parole or post-prison supervision re-
15 sides, without the approval of the director of the probation agency that is
16 supervising the person or of the county manager of the Department of Cor-
17 rections, or a designee of the director or manager. As soon as practicable,
18 the supervising parole and probation officer of a person subject to the re-
19 quirements of this subsection shall review the person’s living arrangement
20 with the person’s sex offender treatment provider to ensure that the ar-
21 rangement supports the goals of offender rehabilitation and community
22 safety. As used in this subsection:

23 “(a) ‘Dwelling’ has the meaning given that term in ORS 469.160.

24 “(b) ‘Dwelling’ does not include a residential treatment facility or a
25 halfway house.

26 “(c) ‘Halfway house’ means a publicly or privately operated profit or
27 nonprofit residential facility that provides rehabilitative care and treatment
28 for sex offenders.

29 “(d) ‘Sex offender’ has the meaning given that term in ORS 181.594.

30 “(4)(a) If the person is released on probation following conviction of a sex

1 crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175
2 or 163.185, and the victim was under 18 years of age, the court, if requested
3 by the victim, shall include as a special condition of the person's probation
4 that the person not reside within three miles of the victim unless:

5 "(A) The victim resides in a county having a population of less than
6 130,000 and the person is required to reside in that county;

7 "(B) The person demonstrates to the court by a preponderance of the ev-
8 idence that no mental intimidation or pressure was brought to bear during
9 the commission of the crime;

10 "(C) The person demonstrates to the court by a preponderance of the ev-
11 idence that imposition of the condition will deprive the person of a residence
12 that would be materially significant in aiding in the rehabilitation of the
13 person or in the success of the probation; or

14 "(D) The person resides in a halfway house. As used in this subparagraph,
15 'halfway house' means a publicly or privately operated profit or nonprofit
16 residential facility that provides rehabilitative care and treatment for sex
17 offenders.

18 "(b) A victim may request imposition of the special condition of probation
19 described in this subsection at the time of sentencing in person or through
20 the prosecuting attorney.

21 "(c) If the court imposes the special condition of probation described in
22 this subsection and if at any time during the period of probation the victim
23 moves to within three miles of the probationer's residence, the court may
24 not require the probationer to change the probationer's residence in order
25 to comply with the special condition of probation.

26 "(5) When a person who is a sex offender, as defined in ORS 181.594, is
27 released on probation, the Department of Corrections or the county commu-
28 nity corrections agency, whichever is appropriate, shall notify the chief of
29 police, if the person is going to reside within a city, and the county sheriff
30 of the county in which the person is going to reside of the person's release

1 and the conditions of the person's release.

2 “(6) Failure to abide by all general and special conditions imposed by the
3 court and supervised by the Department of Corrections or a county commu-
4 nity corrections agency may result in arrest, modification of conditions, re-
5 vocation of probation or imposition of structured, intermediate sanctions in
6 accordance with rules adopted under ORS 137.595.

7 **“(7) The court may order that probation be supervised by the court.**
8 **If the court orders that probation be supervised by the court, the de-**
9 **fendant shall pay a fee of \$100 to the court. Fees collected under this**
10 **subsection shall be deposited by the clerk of the court in the State**
11 **Judicial Stabilization Fund.**

12 “[~~(7)~~] (8) The court may at any time modify the conditions of probation.

13 “[~~(8)~~] (9) A court may not order revocation of probation as a result of the
14 probationer's failure to pay restitution unless the court determines from the
15 totality of the circumstances that the purposes of the probation are not being
16 served.

17 “[~~(9)~~] (10) It is not a cause for revocation of probation that the
18 probationer failed to apply for or accept employment at any workplace where
19 there is a labor dispute in progress. As used in this subsection, ‘labor
20 dispute’ has the meaning for that term provided in ORS 662.010.

21 **“(11) If the court determines that a defendant has violated the**
22 **terms of probation, the court shall impose a \$50 assessment against**
23 **the defendant. The assessment becomes part of the judgment and may**
24 **be collected in the same manner as a fine.**

25 “[~~(10)~~] (12) As used in this section, ‘attends,’ ‘institution of higher edu-
26 cation,’ ‘works’ and ‘carries on a vocation’ have the meanings given those
27 terms in ORS 181.594.

28 **“SECTION 26a. The amendments to ORS 137.540 by section 26 of this**
29 **2009 Act apply only to orders of probation and probation violation de-**
30 **terminations made on or after January 1, 2010.**

1 **"STATE COURT AUTOMATION ASSESSMENT;**
2 **STATE COURT TECHNOLOGY ACCOUNT**

3
4 **"SECTION 27. (1) The State Court Technology Account is estab-**
5 **lished, separate and distinct from the General Fund. Interest earned**
6 **by the State Court Technology Account shall be credited to the ac-**
7 **count. The account shall consist of amounts deposited in the account**
8 **under:**

9 **"(a) Section 28 of this 2009 Act; and**

10 **"(b) ORS 137.295 (5).**

11 **"(2) All amounts in the State Court Technology Account are con-**
12 **tinuously appropriated to the Judicial Department for the purpose of**
13 **paying expenses related to acquisition, development, support and**
14 **maintenance of the Judicial Department's technology systems, equip-**
15 **ment and services, including payment of debt service on certificates**
16 **of participation issued for technology projects of the department.**

17 **"(3) The department may accept gifts, grants or contributions from**
18 **any source, whether public or private, for deposit in the State Court**
19 **Technology Account.**

20 **"SECTION 28. (1) In addition to any other fees and assessments**
21 **provided by law, the clerk of the court shall collect a \$10 state court**
22 **automation assessment at the time any fee is paid in a civil proceeding**
23 **under ORS 21.110, 21.111, 21.114 or 21.310 or in an appeal or petition for**
24 **review under ORS 21.010.**

25 **"(2) Fees collected under this section shall be deposited by the clerk**
26 **of the court in the State Court Technology Account.**

27 **"SECTION 28a. Section 28 of this 2009 Act applies only to filings**
28 **made on or after January 1, 2010, in civil proceedings and appeals de-**
29 **scribed in section 28 of this 2009 Act.**

30 **"SECTION 29. In all cases of conviction for the commission of a**

1 crime or violation, excluding parking violations, a circuit court shall
2 impose upon the defendant a state court automation assessment in
3 addition to any other monetary obligation imposed. Except when a
4 defendant successfully asserts the defense set forth in ORS 419C.522,
5 the assessment shall also be imposed by the circuit court in juvenile
6 cases under ORS chapter 419C. The assessment is a penal obligation
7 in the nature of a fine.

8 **“SECTION 29a.** Section 29 of this 2009 Act applies only to judgments
9 of conviction entered on or after January 1, 2010.

10 **“SECTION 30.** ORS 137.295 is amended to read:

11 “137.295. (1) When a defendant convicted of a crime or violation in the
12 circuit, justice or municipal court, or allowed diversion in such a case,
13 makes a payment of money to be credited against monetary obligations im-
14 posed as a result of that conviction or diversion, the clerk shall distribute
15 the payment as provided in this section.

16 “(2) There are [*four*] **five** categories of monetary obligations. The catego-
17 ries are as follows:

18 “(a) Category 1 consists of compensatory fines under ORS 137.101.

19 “(b) Category 2 consists of restitution as defined in ORS 137.103 and
20 restitution under ORS 419C.450 and a monetary obligation imposed under
21 ORS 811.706.

22 “(c) Category 3 consists of the unitary assessment imposed under ORS
23 137.290, costs imposed under ORS 151.505 or 161.665 and those fines, costs,
24 forfeited security amounts and other monetary obligations payable to the
25 state or to the General Fund of the state in criminal and quasi-criminal cases
26 for which moneys the law does not expressly provide other disposition.

27 **“(d) Category 4 consists of the state court automation assessment**
28 **imposed under section 29 of this 2009 Act.**

29 “(d) Category [~~4~~] **5** consists of monetary obligations imposed upon the
30 defendant as a result of the conviction, but which do not fall under category

1 1, category 2, [or] category 3 **or category 4** of the obligation categories.
2 These include, but are not limited to, fines and other monetary obligations
3 that the law expressly directs be paid to an agency, person or political sub-
4 division of the state, and any other obligation to reimburse for payment of
5 a reward under ORS 131.897. Notwithstanding paragraph (c) of this sub-
6 section, the portion of assessments collected as required by ORS 137.290 (2)(c)
7 and (d) shall be considered category [4] **5** obligations.

8 “(3) As long as there remains unpaid any obligation under category 1, the
9 clerk shall credit toward category 1 all of each payment received.

10 “(4) After the total obligation has been credited under category 1, then
11 as long as there remains unpaid any obligation under both categories 2 and
12 3, the clerk shall credit toward each such category 50 percent of each pay-
13 ment received.

14 “(5) The clerk shall monthly transfer the moneys credited under category
15 1 and under category 2 to the victims for whose benefit moneys under that
16 category were ordered paid. If there are multiple victims for whose benefit
17 moneys have been ordered paid under category 2, the clerk shall first trans-
18 fer moneys credited under category 2 to the victim, as defined in ORS 137.103
19 (4)(a). When the moneys due the victim, as defined in ORS 137.103 (4)(a),
20 have been fully paid, the clerk shall transfer moneys credited under category
21 2 to the Criminal Injuries Compensation Account if moneys have been or-
22 dered paid to the account under category 2. When the moneys due the ac-
23 count have been fully paid, the clerk shall transfer moneys credited under
24 category 2 to any other victims, as defined in ORS 137.103 (4)(b) or (d), for
25 whose benefit moneys under that category were ordered paid in proportion
26 to the amounts ordered. The clerk of a circuit court shall monthly transfer
27 the moneys credited under category 3 as directed by the State Court Ad-
28 ministrators for deposit in the State Treasury to the credit of the Criminal
29 Fine and Assessment Account established under ORS 137.300. The clerk of
30 a justice or municipal court shall monthly transfer the moneys credited un-

1 der category 3 to the Department of Revenue as provided in ORS 305.830.
2 **The clerk of a circuit court shall monthly transfer the moneys credited**
3 **under category 4 as directed by the State Court Administrator for de-**
4 **posit in the State Treasury to the credit of the State Court Technology**
5 **Account established under section 27 of this 2009 Act.**

6 “(6) When the entire amount owing [*for purposes of either*] **under** category
7 2, [*or*] category 3 **or category 4** has been credited, further payments by the
8 defendant shall be credited by the clerk entirely to the unpaid balance of
9 whichever of those categories remains unpaid, until [*both*] category 2, [*and*]
10 category 3 **and category 4** have been entirely paid.

11 “(7) When category 1, category 2, [*and*] category 3 **and category 4** have
12 been entirely paid and any obligation remains owing under category [4] 5,
13 the clerk shall credit further payments by the defendant to the obligations
14 under category [4] 5 and shall monthly transfer the moneys so received to
15 the appropriate recipient, giving first priority to counties and cities entitled
16 to revenues generated by prosecutions in justice and municipal courts and
17 giving last priority to persons entitled to moneys as reimbursement for re-
18 ward under ORS 131.897. The clerk shall monthly transfer the portion of as-
19 sessments collected as required by ORS 137.290 (2)(c) and (d) to the county
20 for administration of substance abuse treatment programs described in ORS
21 430.420.

22 “(8) Notwithstanding subsection (5) of this section, the clerk of a circuit
23 court shall monthly transfer the moneys attributable to parking violations
24 to the State Treasurer for deposit in the General Fund.

25 “(9) The clerk of a justice or municipal court must make the transfers
26 required by this section not later than the last day of the month immediately
27 following the month in which a payment is made.

28 **“SECTION 31.** ORS 131.897 is amended to read:

29 “131.897. (1) In addition to any other sentence it may impose as a result
30 of a criminal conviction, the court may order that a defendant reimburse to

1 a person, organization, association or public body or officer, any sum or
2 portion thereof offered and paid by the person, organization, association or
3 public body or officer under ORS 131.885 to 131.895, as a reward for infor-
4 mation leading to the apprehension of the defendant. Reimbursement under
5 this section shall be ordered paid into the court, for further transfer by the
6 clerk to the person, organization, association or public body or officer enti-
7 tled to it. The monetary obligation described in this section is a category
8 [4] 5 obligation under ORS 137.295.

9 “(2) In determining whether to order reimbursement under this section,
10 the court shall take into account:

11 “(a) The financial resources of the defendant and the burden that re-
12 imbursement will impose, with due regard to the other obligations of the
13 defendant; and

14 “(b) The ability of the defendant to make reimbursement on an install-
15 ment basis or on other conditions to be fixed by the court.

16 **“SECTION 32. The unit captions used in this 2009 Act are provided**
17 **only for the convenience of the reader and do not become part of the**
18 **statutory law of this state or express any legislative intent in the**
19 **enactment of this 2009 Act.”.**

20
