

Senate Bill 494

Sponsored by Senator GORSEK (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that person notifying court of violation of release condition, or otherwise requesting issue of warrant for violation of release condition, notify released person's attorney concerning notification or request.

A BILL FOR AN ACT

1
2 Relating to the revocation of release; amending ORS 135.280.

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

4 **SECTION 1.** ORS 135.280 is amended to read:

5 135.280. (1)(a) Upon failure of a person to comply with any condition of a release agreement or
6 personal recognizance, the court having jurisdiction may, in addition to any other action provided
7 by law, issue a warrant for the arrest of the **released** person [*at liberty upon a personal recogni-*
8 *zance, conditional or security release*].

9 **(b) Any person who notifies the court of a failure to comply with a condition of a release**
10 **agreement or personal recognizance, or otherwise requests that a warrant be issued under**
11 **paragraph (a) of this subsection, shall at the time of the notification or request notify the**
12 **released person's attorney of record concerning the notification or request.**

13 (2) A warrant issued under subsection (1) of this section by a municipal judge may be executed
14 by any peace officer authorized to execute arrest warrants.

15 (3) If the defendant does not comply with the conditions of the release agreement, the court
16 having jurisdiction shall enter an order declaring the entire security amount to be forfeited. Notice
17 of the order of forfeiture shall be given forthwith by personal service, by mail or by such other
18 means as are reasonably calculated to bring to the attention of the defendant and, if applicable, of
19 the sureties the order of forfeiture. If, within 30 days after the court declares the forfeiture, the
20 defendant does not appear or satisfy the court having jurisdiction that appearance and surrender
21 by the defendant was, or still is, impossible and without fault of the defendant, the court shall enter
22 judgment for the state, or appropriate political subdivision thereof, against the defendant and, if
23 applicable, the sureties for the entire security amount set under ORS 135.265 and the costs of the
24 proceedings. At any time before or after entry of the judgment, the defendant or the sureties may
25 apply to the court for a remission of the forfeiture or to modify or set aside the judgment. The court,
26 upon good cause shown, may remit the forfeiture or any part thereof or may modify or set aside the
27 judgment as in other criminal cases, except the portion of the security deposit that the court or-
28 dered to be applied to child support under subsection (4) of this section, as the court considers
29 reasonable under the circumstances of the case. The court shall adopt procedures to ensure that the
30 amount deposited under ORS 135.265 is available for a reasonable period of time for disposition un-
31 der subsection (4) of this section.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) After entry of a judgment for the state, the court, upon a motion filed under ORS 25.715,
2 may order that a portion of the security deposit be applied to any unsatisfied child support award
3 owed by the defendant and to provide security for child support payments in accordance with ORS
4 25.230. The portion of the security deposit that may be applied to the child support award:

5 (a) Is limited to the amount deposited under ORS 135.265 (2);

6 (b) May not exceed 66 percent of the entire security amount set under ORS 135.265 if the deposit
7 has been made under ORS 135.265 (3); and

8 (c) Does not reduce the money award in the judgment entered under subsection (3) of this sec-
9 tion that is owed to the state.

10 (5) When judgment is entered in favor of the state, or any political subdivision of the state, on
11 any security given for a release, the judgment may be enforced as a judgment in a civil action. If
12 entered in circuit court, the judgment shall be entered in the register, and the clerk of the court
13 shall note in the register that the judgment creates a judgment lien. The district attorney, county
14 counsel or city attorney may have execution issued on the judgment and deliver same to the sheriff
15 to be executed by levy on the deposit or security amount made in accordance with ORS 135.265, or
16 may collect the judgment as otherwise provided by law. The proceeds of any execution or collection
17 shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corpo-
18 ration wherein the security was taken if the offense was defined by an ordinance of a political
19 subdivision of this state, or paid into the treasury of the county wherein the security was taken if
20 the offense was defined by a statute of this state and the judgment was entered by a justice court,
21 or paid over as directed by the State Court Administrator for deposit in the Criminal Fine Account,
22 if the offense was defined by a statute of this state and the judgment was entered by a circuit court.
23 The provisions of this section shall not apply to amounts deposited upon appearance under ORS
24 153.061.

25 (6) When the judgment of forfeiture is entered, the security deposit or deposit with the clerk is,
26 by virtue of the judgment alone and without requiring further execution, forfeited to and may be
27 kept by the state or its appropriate political subdivision. Except as provided in subsection (4) of this
28 section, the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining on the
29 judgment and shall cause the amount on deposit to be transferred to the revenue account of the
30 state or political subdivision thereof entitled to receive the proceeds of execution under this section.

31 (7) The stocks, bonds, personal property and real property shall be sold in the same manner as
32 in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court
33 costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment
34 shall be paid into the treasury of the municipal corporation wherein the security was taken if the
35 offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury
36 of the county wherein the security was taken if the offense was defined by a statute of this state
37 and the judgment was entered by a justice court, or deposited in the General Fund available for
38 general governmental expenses if the offense was defined by a statute of this state and the judgment
39 was entered by a circuit court. The balance shall be returned to the owner. The real property sold
40 may be redeemed in the same manner as real estate may be redeemed after judicial or execution
41 sales in civil actions.

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