

House Bill 2309

Sponsored by Representative LEWIS; Representatives CATE, LEVY B, OWENS (Pre-session 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 law enforcement agencies to take DNA sample of person arrested for certain crimes. Requires destruction of sample, upon person's request, if arrest is followed by acquittal, dismissal, reversal of conviction or expiration of statute of limitations.

Removes provisions directing Department of State Police to prioritize testing of certain DNA samples when funds are limited.

Includes obtaining and analyzing DNA samples of arrested persons as purpose for which moneys may be allocated from Criminal Fine Account.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to DNA samples; creating new provisions; amending ORS 137.076, 137.300, 181A.155,
3 181A.160, 419A.260 and 419C.473; and prescribing an effective date.

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

5 **SECTION 1. (1) A law enforcement agency shall obtain a blood or buccal sample in ac-**
6 **cordance with this section for any person who is arrested for:**

7 (a) A person felony, as that term is defined in the rules of the Oregon Criminal Justice
8 Commission;

9 (b) A sex crime, as defined in ORS 163A.005; or

10 (c) Burglary in the first degree, as defined in ORS 164.225.

11 (2)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed
12 professional nurse, a licensed practical nurse, a qualified medical technician, a licensed phy-
13 sician or a person acting under the direction or control of a licensed physician.

14 (b) A buccal sample may be obtained by anyone authorized to do so by the arresting law
15 enforcement agency. The person obtaining the buccal sample shall follow collections proce-
16 dures established by the Department of State Police.

17 (c) A test result, or an opinion based upon a test result, of a blood or buccal sample ob-
18 tained under this section is not inadmissible as evidence solely because of deviations from
19 procedures adopted by the department that do not affect the reliability of the opinion or test
20 result.

21 (d) A person authorized by this section to obtain a blood or buccal sample may not be
22 held civilly liable for obtaining a sample in accordance with this section.

23 (3) A sample is not required to be obtained under this section if:

24 (a) The law enforcement agency has previously obtained an adequate blood or buccal
25 sample of the person;

26 (b) The department notifies the law enforcement agency that it has previously received
27 an adequate blood or buccal sample of the person in accordance with ORS 137.076, 161.325 or
28 419C.473; or

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 (c) **Obtaining a sample would create a substantial and unreasonable risk to the health**
 2 **of the arrested person.**

3 (4) **The law enforcement agency shall cause the blood or buccal sample to be transmitted**
 4 **to the department in accordance with any procedures that may be established by the de-**
 5 **partment.**

6 (5) **The blood or buccal sample may be analyzed during or immediately following the ar-**
 7 **rest of the person, or at any time thereafter, in accordance with procedures established by**
 8 **the department.**

9 (6) **The department may adopt rules to carry out the provisions of this section.**

10 **SECTION 2.** ORS 181A.155 is amended to read:

11 181A.155. (1) The Department of State Police is authorized to:

12 (a) Store blood and buccal samples received under authority of this section, ORS 137.076, 161.325
 13 and 419C.473 (1) and section 2, chapter 852, Oregon Laws 2001 **and section 1 of this 2023 Act**, and
 14 other physical evidence obtained from analysis of such samples;

15 (b) Analyze such samples for the purpose of establishing the genetic profile of the donor or
 16 otherwise determining the identity of persons or contract with other qualified public or private
 17 laboratories, **or other qualified law enforcement agencies as determined by the department,**
 18 to conduct that analysis;

19 (c) Maintain a criminal identification database containing information derived from blood and
 20 buccal analyses;

21 (d) Utilize such samples to create statistical population frequency databases, provided that ge-
 22 netic profiles or other such information in a population frequency database shall not be identified
 23 with specific individuals; and

24 (e) Adopt rules establishing procedures for obtaining, transmitting and analyzing blood and
 25 buccal samples and for storing and destroying blood and buccal samples and other physical evidence
 26 and criminal identification information obtained from such analysis. Procedures for blood and buccal
 27 analyses may include all techniques which the department determines are accurate and reliable in
 28 establishing identity, including but not limited to, analysis of DNA (deoxyribonucleic acid), antigen
 29 antibodies, polymorphic enzymes or polymorphic proteins.

30 *[(2) If the department is unable to analyze all samples due to lack of funds, the department shall*
 31 *analyze samples in the following order:]*

32 *[(a) The department shall first analyze samples from persons convicted of:]*

33 *[(A) Rape, sodomy, unlawful sexual penetration, sexual abuse, public indecency, incest or using a*
 34 *child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to 163.427,*
 35 *163.465 (1)(d), 163.525 and 163.670;]*

36 *[(B) Burglary in the second degree, as defined in ORS 164.215;]*

37 *[(C) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;]*

38 *[(D) Burglary in the first degree, as defined in ORS 164.225;]*

39 *[(E) Assault in the first, second or third degree, as defined in ORS 163.165, 163.175 and 163.185;]*

40 *[(F) Kidnapping in the first or second degree, as defined in ORS 163.225 and 163.235;]*

41 *[(G) Stalking, as defined in ORS 163.732;]*

42 *[(H) Robbery in the first, second or third degree, as defined in ORS 164.395, 164.405 and*
 43 *164.415;]*

44 *[(I) Manslaughter in the first or second degree, as defined in ORS 163.118 and 163.125;]*

45 *[(J) Criminally negligent homicide, as defined in ORS 163.145;]*

1 [(K) *Aggravated vehicular homicide, as defined in ORS 163.149;*]

2 [(L) *Conspiracy or attempt to commit any felony listed in subparagraphs (A) to (J) of this para-*
3 *graph; or*]

4 [(M) *Murder, aggravated murder or an attempt to commit murder or aggravated murder.*]

5 [(b) *After analyzing samples from persons described in paragraph (a) of this subsection, the de-*
6 *partment shall analyze samples from persons convicted of a felony under ORS 475.752, 475.806 to*
7 *475.894, 475.904, 475.906 or 475.914.*]

8 [(c) *After analyzing samples from persons described in paragraphs (a) and (b) of this subsection,*
9 *the department shall analyze samples from persons convicted of any other felony.*]

10 [(3) *Notwithstanding subsection (2) of this section, the department may analyze a sample from a*
11 *lower priority before all samples in higher priorities are analyzed if required in a particular case for*
12 *law enforcement purposes.*]

13 [(4)] **(2)** The department may not transfer or disclose any sample, physical evidence or criminal
14 identification information obtained, stored or maintained under authority of this section, ORS
15 137.076, 161.325 or 419C.473 (1) **or section 1 of this 2023 Act** except:

16 (a) To a law enforcement agency as defined in ORS 181A.010, a district attorney or the Criminal
17 Justice Division of the Department of Justice for the purpose of establishing the identity of a person
18 in the course of a criminal investigation or proceeding;

19 (b) To a party in a criminal prosecution or juvenile proceeding pursuant to ORS 419C.005 if
20 discovery or disclosure is required by a separate statutory or constitutional provision; or

21 (c) To a court or grand jury in response to a lawful subpoena or court order when the evidence
22 is not otherwise privileged and is necessary for criminal justice purposes.

23 [(5)] **(3)** The department may not transfer or disclose any sample, physical evidence or criminal
24 identification information under subsection [(4)] **(2)** of this section unless the public agency or per-
25 son receiving the sample, physical evidence or criminal identification information agrees to destroy
26 the sample, physical evidence or criminal identification information if notified by the department
27 that [*a court has reversed the conviction, judgment or order that created the obligation to provide the*
28 *blood or buccal sample*] **the authority to retain the sample has been rescinded.**

29 [(6)] **(4)** Any public agency that receives a sample, physical evidence or criminal identification
30 information under authority of subsection [(4)] **(2)** of this section may not disclose it except as pro-
31 vided in subsection [(4)] **(2)** of this section.

32 [(7)] **(5)** Notwithstanding subsections [(4)] **(2)** and [(6)] **(4)** of this section, any person who is the
33 subject of a record within a criminal identification database maintained under the authority of this
34 section may, upon request, inspect that information at a time and location designated by the de-
35 partment. The department may deny inspection if it determines that there is a reasonable likelihood
36 that such inspection would prejudice a pending criminal investigation. In any case, the department
37 is not required to allow the person or anyone acting on the person's behalf to test any blood or
38 buccal sample or other physical evidence. The department shall adopt procedures governing the in-
39 spection of records and samples and challenges to the accuracy of records. The procedures shall
40 accommodate the need to preserve the materials from contamination and destruction.

41 [(8)(a)] **(6)(a) A person who provided a blood or buccal sample may request destruction of**
42 **the sample and any criminal identification record created in connection with the sample**
43 **whenever:**

44 **(A)** A court reverses the conviction, judgment or order that created an obligation to provide a
45 blood or buccal sample under ORS 137.076 (2), 161.325 or 419C.473 (1), *the person who provided the*

1 *sample may request destruction of the sample and any criminal identification record created in con-*
 2 *nection with that sample.];*

3 **(B) The arrest that created the obligation to provide a blood or buccal sample under**
 4 **section 1 of this 2023 Act leads to a judgment of acquittal, an order of dismissal or a con-**
 5 **viction that is subsequently reversed; or**

6 **(C) A prosecution is not commenced within the statute of limitations for the crime of**
 7 **arrest that created the obligation to provide a blood or buccal sample under section 1 of this**
 8 **2023 Act.**

9 (b) Upon receipt of a written request for destruction pursuant to this section and a certified
 10 copy of *[the] a court order [reversing the conviction, judgment or order]* **or sworn affidavit described**
 11 **in paragraph (d) of this subsection**, the department shall destroy any sample received from the
 12 person, any physical evidence obtained from that sample and any criminal identification records
 13 pertaining to the person, unless the department determines that the person has otherwise become
 14 obligated to submit a blood or buccal sample as a result of a separate conviction, juvenile adjudica-
 15 tion or finding of guilty except for insanity for an offense listed in ORS 137.076 (1) **or an arrest**
 16 **for a crime listed in section 1 (1) of this 2023 Act.** When the department destroys a sample,
 17 physical evidence or criminal identification record under this paragraph, the department shall notify
 18 any public agency or person to whom the sample, physical evidence or criminal identification in-
 19 formation was transferred or disclosed under subsection *[(4)] (2)* of this section *[of the reversal of the*
 20 *conviction, judgment or order]* **that the authority to retain the sample has been rescinded.**

21 (c) The department is not required to destroy an item of physical evidence obtained from a blood
 22 or buccal sample if evidence relating to another person subject to the provisions of ORS 137.076,
 23 161.325, 419A.260 and 419C.473 (1) and this section **and section 1 of this 2023 Act** would thereby
 24 be destroyed. Notwithstanding this subsection, no sample, physical evidence or criminal identifica-
 25 tion record is affected by an order to set aside a conviction under ORS 137.225.

26 **(d) When a prosecution is not commenced within the statute of limitations for the crime**
 27 **of arrest that created the obligation to provide a blood or buccal sample under section 1 of**
 28 **this 2023 Act, the district attorney shall provide to the department a sworn affidavit within**
 29 **90 days after expiration of the statute of limitations indicating that the authority to retain**
 30 **the sample has been rescinded.**

31 *[(9)] (7)* As used in this section, “convicted” includes a juvenile court finding of jurisdiction
 32 based on ORS 419C.005.

33 **SECTION 3.** ORS 181A.160 is amended to read:

34 181A.160. (1) Immediately upon the arrest of a person for a crime for which criminal offender
 35 information must be provided under ORS 181A.165, a law enforcement agency shall:

36 (a) Place the arrested person’s fingerprints and identifying data on forms prescribed or furnished
 37 by the Department of State Police, photograph the arrested person and promptly transmit the form
 38 and photograph to the department.

39 (b) If the arrest is disposed of by the arresting agency, cause the disposition report to be com-
 40 pleted and promptly transmitted to the department.

41 (c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded
 42 to the court that will dispose of the charge for further action in accordance with ORS 181A.175.

43 **(2) A law enforcement agency, immediately upon the arrest of a person for a crime listed**
 44 **in section 1 (1) of this 2023 Act, shall obtain a blood or buccal sample from the person in**
 45 **accordance with section 1 of this 2023 Act.**

1 [(2)] (3) A law enforcement agency may record, in addition to fingerprints, the palm prints, sole
 2 prints, toe prints or other personal identifiers when, in the discretion of the agency, it is necessary
 3 to effect identification of the persons or to the investigation of the crime charged.

4 [(3)] (4) A law enforcement agency, for the purpose of identification, may record and submit to
 5 the department the fingerprints of persons arrested for crimes for which criminal offender informa-
 6 tion is not required under ORS 181A.165.

7 **SECTION 4.** ORS 137.076 is amended to read:

8 137.076. (1) This section applies to any person convicted of:

9 (a) A felony;

10 (b) Sexual abuse in the third degree or public indecency;

11 (c) Conspiracy or attempt to commit rape in the third degree, sodomy in the third degree, sexual
 12 abuse in the second degree, burglary in the second degree or promoting prostitution; or

13 (d) Murder or aggravated murder.

14 (2) When a person is convicted of an offense listed in subsection (1) of this section:

15 (a) The person shall, whether or not ordered to do so by the court under paragraph (b) of this
 16 subsection, provide a blood or buccal sample at the request of the appropriate agency designated in
 17 paragraph (c) of this subsection.

18 (b) The court shall include in the judgment of conviction an order stating that a blood or buccal
 19 sample is required to be obtained at the request of the appropriate agency and, unless the convicted
 20 person lacks the ability to pay, that the person shall reimburse the appropriate agency for the cost
 21 of obtaining and transmitting the blood or buccal sample. If the judgment sentences the convicted
 22 person to probation, the court shall order the convicted person to submit to the obtaining of a blood
 23 or buccal sample as a condition of the probation.

24 (c) The appropriate agency shall cause a blood or buccal sample to be obtained and transmitted
 25 to the Department of State Police. The agency shall cause the sample to be obtained as soon as
 26 practicable after conviction. The agency shall obtain the convicted person's thumbprint at the same
 27 time the agency obtains the blood or buccal sample. The agency shall include the thumbprint with
 28 the identifying information that accompanies the sample. Whenever an agency is notified by the
 29 Department of State Police that a sample is not adequate for analysis, the agency shall obtain and
 30 transmit a blood sample. The appropriate agency shall be:

31 (A) The Department of Corrections, whenever the convicted person is committed to the legal
 32 and physical custody of the department.

33 (B) In all other cases, the law enforcement agency attending upon the court.

34 (3)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed phy-
 35 sician, a person acting under the direction or control of a licensed physician, a physician assistant
 36 licensed under ORS 677.505 to 677.525, a nurse licensed under ORS chapter 678 or a qualified med-
 37 ical technician.

38 (b) A buccal sample may be obtained by anyone authorized to do so by the appropriate agency.
 39 The person obtaining the buccal sample shall follow the collection procedures established by the
 40 Department of State Police.

41 (c) A person authorized by this subsection to obtain a blood or buccal sample shall not be held
 42 civilly liable for obtaining a sample in accordance with this subsection and subsection (2) of this
 43 section, ORS 161.325 and 419C.473. The sample shall also be obtained and transmitted in accordance
 44 with any procedures that may be established by the Department of State Police. However, no test
 45 result or opinion based upon a test result shall be rendered inadmissible as evidence solely because

1 of deviations from procedures adopted by the Department of State Police that do not affect the re-
 2 liability of the opinion or test result.

3 (4) No sample is required to be obtained if:

4 (a) The Department of State Police notifies the court or the appropriate agency that it has
 5 previously received an adequate blood or buccal sample obtained from the convicted person in ac-
 6 cordance with this section or ORS 161.325 or 419C.473 **or section 1 of this 2023 Act**; or

7 (b) The court determines that obtaining a sample would create a substantial and unreasonable
 8 risk to the health of the convicted person.

9 (5) The provisions of subsections (1) to (4) of this section apply to any person who, on or after
 10 September 29, 1991, is serving a term of incarceration as a sentence or as a condition of probation
 11 imposed for conviction of an offense listed in subsection (1) of this section, and any such person shall
 12 submit to the obtaining of a blood or buccal sample. Before releasing any such person from
 13 incarceration, the supervisory authority shall cause a blood or buccal sample and the person's
 14 thumbprint to be obtained and transmitted in accordance with subsections (1) to (4) of this section.

15 **SECTION 5.** ORS 419A.260 is amended to read:

16 419A.260. (1) As used in ORS 419A.260 to 419A.271:

17 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-
 18 ior, which could result in a referral to a juvenile department or a juvenile court's assumption of
 19 jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or 419C.005 comes to the attention of an agency
 20 specified in paragraph (d) of this subsection.

21 (b) "Expunction" means:

22 (A) The removal by destruction of a judgment or order related to a contact and all records and
 23 references associated with a subject person;

24 (B) The removal by sealing of a judgment or order related to a contact and all records and
 25 references associated with a subject person;

26 (C) The removal by redaction of a subject person's name and all personal identifiers and all
 27 references to the subject person within a record; or

28 (D) If a record is kept by the Department of Human Services the department's affixing to the
 29 front of the file containing the record a stamp or statement identifying the name of the individual,
 30 the date of expunction and instruction that no further reference may be made to the record that is
 31 subject to the expunction notice or order.

32 (c) "Person" includes a person under 18 years of age.

33 (d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which
 34 contains information relating to a person's contact with any law enforcement agency, juvenile court
 35 or juvenile department, the Psychiatric Security Review Board, the Department of Human Services,
 36 the Oregon Youth Authority or the Oregon Health Authority and is kept manually, through the use
 37 of electronic data processing equipment, or by any other means by a law enforcement or public in-
 38 vestigative agency, a juvenile court or juvenile department or an agency of the State of Oregon.

39 "Record" does not include:

40 (A) A transcript of a student's Youth Corrections Education Program academic record;

41 (B) Material on file with a public agency which is necessary for obtaining federal financial
 42 participation regarding financial assistance or services on behalf of a person who has had a contact;

43 (C) Records kept or disseminated by the Department of Transportation, State Marine Board and
 44 State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

45 (D) Police and court records related to an order of waiver where the matter is still pending in

- 1 the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;
- 2 (E) Records related to a support obligation;
- 3 (F) Medical records other than those related to a finding of responsible except for insanity under
4 ORS 419C.411;
- 5 (G) Records of a proposed or adjudicated termination of parental rights and adoptions;
- 6 (H) Any law enforcement record of a person who currently does not qualify for expunction or
7 of current investigations or cases waived to the adult court;
- 8 (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;
- 9 (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be
10 within the jurisdiction of the court based upon the person's commission of an act which if done by
11 an adult would constitute one of the following offenses:
- 12 (i) Aggravated murder under ORS 163.095;
- 13 (ii) Murder in any degree under ORS 163.107 or 163.115;
- 14 (iii) Attempt, solicitation or conspiracy to commit murder in any degree or aggravated murder;
- 15 (iv) Manslaughter in the first degree under ORS 163.118;
- 16 (v) Manslaughter in the second degree under ORS 163.125;
- 17 (vi) Criminally negligent homicide under ORS 163.145;
- 18 (vii) Assault in the first degree under ORS 163.185;
- 19 (viii) Criminal mistreatment in the first degree under ORS 163.205;
- 20 (ix) Kidnapping in the first degree under ORS 163.235;
- 21 (x) Rape in the third degree under ORS 163.355;
- 22 (xi) Rape in the second degree under ORS 163.365;
- 23 (xii) Rape in the first degree under ORS 163.375;
- 24 (xiii) Sodomy in the third degree under ORS 163.385;
- 25 (xiv) Sodomy in the second degree under ORS 163.395;
- 26 (xv) Sodomy in the first degree under ORS 163.405;
- 27 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;
- 28 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;
- 29 (xviii) Sexual abuse in the third degree under ORS 163.415;
- 30 (xix) Sexual abuse in the second degree under ORS 163.425;
- 31 (xx) Sexual abuse in the first degree under ORS 163.427;
- 32 (xxi) Promoting prostitution under ORS 167.012;
- 33 (xxii) Compelling prostitution under ORS 167.017;
- 34 (xxiii) Aggravated driving while suspended or revoked under ORS 163.196;
- 35 (xxiv) Aggravated vehicular homicide under ORS 163.149; or
- 36 (xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the
37 second degree and criminally negligent homicide;
- 38 (K) Blood samples, buccal samples and other physical evidence and identification information
39 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,
40 181A.155 or 419C.473 **or section 1 of this 2023 Act**;
- 41 (L) Records maintained in the Law Enforcement Data System under ORS 163A.035; or
- 42 (M) Records of a law enforcement agency or public investigative agency concerning an open or
43 otherwise unresolved investigation.
- 44 (e) "Termination" means:
- 45 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,

1 the final disposition of a case by informal means, by a decision not to place the person on probation
 2 or make the person a ward of the court after the person has been found to be within the court's
 3 jurisdiction or by a discontinuance of probation, of the court's wardship or of the jurisdiction of the
 4 Psychiatric Security Review Board, the Oregon Health Authority or the Department of Human Ser-
 5 vices.

6 (B) For a person who is the subject of a record kept by a law enforcement or public investi-
 7 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final
 8 disposition of the person's most recent contact with a law enforcement agency.

9 (2) The juvenile court or juvenile department shall make reasonable effort to provide written
 10 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or
 11 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's
 12 parent, of the procedures for expunction of a record, the right to and procedure to access counsel
 13 under this chapter, the legal effect of an expunction order and the procedures for seeking relief from
 14 the duty to report as a sex offender provided under ORS 163A.130, at the following times:

15 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-
 16 ment;

17 (b) At the time of termination;

18 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile
 19 department or motion on a juvenile court; and

20 (d) At the time of notice of execution of an expunction order.

21 **SECTION 6.** ORS 419C.473 is amended to read:

22 419C.473. (1) Whenever an adjudicated youth has been found to be within the jurisdiction of the
 23 court under ORS 419C.005 for having committed an act that if done by an adult would constitute a
 24 felony listed in subsection (2) of this section, the court shall order the adjudicated youth to submit
 25 to the obtaining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall
 26 further order that as soon as practicable after the entry of the dispositional order, the law
 27 enforcement agency attending upon the court shall cause a blood or buccal sample to be obtained
 28 and transmitted in accordance with ORS 137.076.

29 (2) The felonies to which subsection (1) of this section applies are:

30 (a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public
 31 indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are
 32 defined in ORS 163.355 to 163.427, 163.465 (1)(d), 163.525 and 163.670;

33 (b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to
 34 commit any offense listed in paragraph (a) of this subsection;

35 (c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;

36 (d) Burglary in the first degree, as defined in ORS 164.225;

37 (e) Assault in the first degree, as defined in ORS 163.185;

38 (f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to
 39 (e) of this subsection; or

40 (g) Murder or aggravated murder.

41 (3) No order for the obtaining and transmitting of a blood or buccal sample is required to be
 42 entered if:

43 (a) The Department of State Police notifies the court or the law enforcement agency attending
 44 upon the court that it has previously received an adequate blood or buccal sample taken from the
 45 adjudicated youth in accordance with this section, ORS 137.076 or 161.325 (4) **or section 1 of this**

1 **2023 Act; or**

2 (b) The court determines that obtaining a sample would create a substantial and unreasonable
3 risk to the health of the adjudicated youth.

4 (4) Notwithstanding any other provision of law, blood and buccal samples and other physical
5 evidence and criminal identification information obtained under authority of this section or as a
6 result of analysis conducted pursuant to ORS 181A.155 may be maintained, stored, destroyed and
7 released to authorized persons or agencies under the conditions established in ORS 181A.155 and
8 rules adopted by the Department of State Police under the authority of that section.

9 (5) The court may not order the adjudicated youth or the parent or guardian of the adjudicated
10 youth to pay for or to reimburse any agency for the cost of obtaining or transmitting a blood or
11 buccal sample under this section.

12 **SECTION 7.** ORS 137.300 is amended to read:

13 137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise
14 provided by law, all amounts collected in state courts as monetary obligations in criminal actions
15 shall be deposited by the courts in the account. All moneys in the account are continuously appro-
16 priated to the Department of Revenue to be distributed by the Department of Revenue as provided
17 in this section. The Department of Revenue shall keep a record of moneys transferred into and out
18 of the account.

19 (2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the
20 following purposes, in the following order of priority:

21 (a) Allocations for public safety standards, training and facilities.

22 (b) Allocations for criminal injuries compensation and assistance to victims of crime and chil-
23 dren reasonably suspected of being victims of crime.

24 (c) Allocations for the forensic services provided by the Oregon State Police, including, but not
25 limited to, services of the Chief Medical Examiner.

26 (d) Allocations for the maintenance and operation of the Law Enforcement Data System.

27 **(e) Allocations for the collection and analysis of blood and buccal samples under section**
28 **1 of this 2023 Act.**

29 (3) After making allocations under subsection (2) of this section, the Legislative Assembly shall
30 allocate moneys from the Criminal Fine Account for the following purposes:

31 (a) Allocations to the Law Enforcement Medical Liability Account established under ORS
32 414.815.

33 (b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

34 (c) Allocations to the Department of Corrections for the purpose of planning, operating and
35 maintaining county juvenile and adult corrections programs and facilities and drug and alcohol
36 programs.

37 (d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for
38 the establishment, operation and maintenance of alcohol and drug abuse prevention, early inter-
39 vention and treatment services provided through a county.

40 (e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relat-
41 ing to driving under the influence of intoxicants.

42 (f) Allocations to the Arrest and Return Account established under ORS 133.865.

43 (g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

44 (h) Allocations to the State Court Technology Fund established under ORS 1.012.

45 (4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allo-

1 cate all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations
2 to the Drug Treatment and Recovery Services Fund established under ORS 430.384.

3 (5) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account
4 under subsection (3) of this section be consistent with historical funding of the entities, programs
5 and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal
6 proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed
7 to counties based on the amounts that were transferred to counties by circuit courts during the
8 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

9 (6) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service
10 obligations.

11 (7) The Department of Revenue shall deposit in the General Fund all moneys remaining in the
12 Criminal Fine Account after the distributions listed in subsections (2), (3) and (4) of this section have
13 been made.

14 (8) The Department of Revenue shall establish by rule a process for distributing moneys in the
15 Criminal Fine Account. The department may not distribute more than one-eighth of the total
16 biennial allocation to an entity during a calendar quarter.

17 **SECTION 8. Section 1 of this 2023 Act and the amendments to ORS 137.076, 137.300,**
18 **181A.155, 181A.160, 419A.260 and 419C.473 by sections 2 to 7 of this 2023 Act apply to arrests**
19 **occurring on or after the effective date of this 2023 Act.**

20 **SECTION 9. This 2023 Act takes effect on the 91st day after the date on which the 2023**
21 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

22