

B-Engrossed House Bill 2491

Ordered by the House May 1
Including House Amendments dated April 10 and May 1

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Representative Jason Kropf)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act sets a process for courts to follow when deciding whether to remit criminal fines, fees or costs. (Flesch Readability Score: 67.3).

Establishes a standardized process for courts to follow when a petition is filed for the remission of fines, fees or costs associated with a criminal case.

A BILL FOR AN ACT

Relating to courts; creating new provisions; and amending ORS 151.505, 161.665 and 161.685.

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

SECTION 1. (1) Upon the filing of a petition for the remission of fines, fees or costs under ORS 151.505 (4), 161.665 (5) or 161.685 (5)(b), the court shall proceed as described in this section.

(2) Upon receiving the petition, the court may hold a hearing. When determining whether to remit a fine, fee or cost under this section, the court shall consider the following factors to the extent that the parties offer relevant evidence concerning each factor:

(a) The financial resources, including income and assets, of the petitioner;

(b) The financial obligations of the petitioner;

(c) The nature of the burden the debt imposes on the petitioner;

(d) Whether the petitioner qualifies for public assistance;

(e) The age of the debt; and

(f) Any other equitable factor.

(3)(a) If the court determines that requiring payment of the fine, fee or cost would be a manifest hardship for the petitioner or the immediate family of the petitioner, the court shall enter a supplemental judgment that remits all or part of the amount due or that modifies the method of payment.

(b) Except as provided in ORS 1.202, the court has authority under this section to remit all or part of any fine, fee or cost associated with the case, regardless of when the obligation arose.

(4) If the court fully remits a fine, fee or cost under this section, the person shall be considered to have fully complied with or performed the sentence of the court with respect to the fine, fee or cost for purposes of ORS 137.225.

(5) The State Court Administrator shall develop one standardized form to be used for

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 **petitions for the remission of fines, fees or costs under ORS 151.505 (4), 161.665 (5) and 161.685**
2 **(5)(b) and shall ensure that the form is made available on the website of the Judicial De-**
3 **partment.**

4 **SECTION 2.** ORS 151.505 is amended to read:

5 151.505. (1) At the conclusion of a case or matter in which the first accusatory instrument or
6 petition in the trial court was filed after January 1, 1998, and in which the court appointed counsel
7 to represent a person, a trial, appellate or post-conviction court may include in its judgment a
8 money award requiring that the person repay in full or in part the administrative costs of deter-
9 mining the eligibility of the person for appointed counsel, and the costs of the legal and other ser-
10 vices that are related to the provision of appointed counsel, that have not previously been required
11 to be paid under a limited judgment entered under ORS 151.487. An award under this section is a
12 monetary obligation payable to the state.

13 (2) Costs that may be included in a money award under this section include a reasonable at-
14 torney fee for counsel appointed to represent the person and a reasonable amount for expenses au-
15 thorized under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of
16 hours at the hourly rate authorized by the Oregon Public Defense Commission under ORS 151.216.
17 For purposes of this subsection, compensation of counsel is determined by reference to a schedule
18 of compensation established by the commission.

19 (3) The court may not require a person to pay costs under this section unless the person is or
20 may be able to pay the costs. In determining the amount and method of payment of costs, the court
21 shall take account of the financial resources of the person and the nature of the burden that pay-
22 ment of costs will impose.

23 (4)(a) A person who has been required to pay costs under this section and who is not in
24 contumacious default in the payment of the costs may at any time petition the court for remission
25 of the payment of costs or any unpaid portion of the costs. *[If it appears to the satisfaction of the*
26 *court that payment of the amount due will impose manifest hardship on the person ordered to repay*
27 *or on the immediate family of the person, or will interfere with the ability of the person to complete*
28 *an alcohol or drug treatment program, the court may enter a supplemental judgment that remits all or*
29 *part of the amount due or modifies the method of payment.]* **Upon receiving a petition described in**
30 **this paragraph, the court shall proceed under section 1 of this 2025 Act.**

31 (b) In accordance with ORS 144.089, a person may enter into a written agreement to participate
32 in a community service exchange program as an alternative to paying costs imposed under this
33 section.

34 (5) All moneys collected or paid under a money award made pursuant to this section shall be
35 paid into the Criminal Fine Account. If the money award is part of a criminal judgment of con-
36 viction, the award is a Type 2, Level II obligation for the purpose of ORS 137.145 to 137.159.

37 **SECTION 3.** ORS 161.665 is amended to read:

38 161.665. (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for
39 whom it enters a judgment of conviction, may include in its sentence thereunder a money award for
40 all costs specially incurred by the state in prosecuting the defendant. Costs include a reasonable
41 attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for
42 fees and expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney
43 fee is presumed to be a reasonable number of hours at the hourly rate authorized by the Oregon
44 Public Defense Commission under ORS 151.216. Costs do not include expenses inherent in providing
45 a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and

1 operation of government agencies that must be made by the public irrespective of specific violations
2 of law.

3 (2) Except as provided in ORS 151.505, the court, after the conclusion of an appeal of its initial
4 judgment of conviction, may include in its general judgment, or enter a supplemental judgment that
5 includes, a money award that requires a convicted defendant to pay a reasonable attorney fee for
6 counsel appointed pursuant to ORS 138.500, including counsel who is appointed under ORS 151.216
7 or counsel who is under contract to provide services for the proceeding under ORS 151.219, and
8 other costs and expenses allowed by the executive director of the Oregon Public Defense Commis-
9 sion under ORS 138.500 (4). A reasonable attorney fee is presumed to be a reasonable number of
10 hours at the hourly rate authorized by the commission under ORS 151.216.

11 (3) For purposes of subsections (1) and (2) of this section, compensation of counsel is determined
12 by reference to a schedule of compensation established by the commission under ORS 151.216.

13 (4) The court may not sentence a defendant to pay costs under this section unless the defendant
14 is or may be able to pay them. In determining the amount and method of payment of costs, the court
15 shall take account of the financial resources of the defendant and the nature of the burden that
16 payment of costs will impose.

17 (5) A defendant who has been sentenced to pay costs under this section and who is not in
18 contumacious default in the payment of costs may at any time petition the court that sentenced the
19 defendant for remission of the payment of costs or of any unpaid portion of costs. *[If it appears to*
20 *the satisfaction of the court that payment of the amount due will impose manifest hardship on the de-*
21 *fendant or the immediate family of the defendant, the court may enter a supplemental judgment that*
22 *remits all or part of the amount due in costs, or modifies the method of payment under ORS 161.675.]*

23 **Upon receiving a petition described in this subsection, the court shall proceed under section**
24 **1 of this 2025 Act.**

25 (6) Except as provided in subsection (7) of this section, all moneys collected or paid under this
26 section shall be paid into the Criminal Fine Account.

27 (7) The court may, in the judgment of conviction, include a money award requiring the defendant
28 to pay the costs of extraditing the defendant to this state. Any amounts awarded to the state under
29 this subsection must be listed separately in the money award portion of the judgment. All moneys
30 collected or paid under this subsection shall be deposited into the Arrest and Return Account es-
31 tablished by ORS 133.865.

32 **SECTION 4.** ORS 161.685 is amended to read:

33 161.685. (1) When a defendant who has been sentenced or ordered to pay a fine, or to make
34 restitution, defaults on a payment or installment ordered by the court, the court on motion of the
35 district attorney or upon its own motion may require the defendant to show cause why the default
36 should not be treated as contempt of court, and may issue a show cause citation or a warrant of
37 arrest for the appearance of the defendant.

38 (2) If the court finds that the default constitutes contempt, the court may impose one or more
39 of the sanctions authorized by ORS 33.105.

40 (3) When a fine or an order of restitution is imposed on a corporation or unincorporated asso-
41 ciation, it is the duty of the person authorized to make disbursement from the assets of the corpo-
42 ration or association to pay the fine or make the restitution from those assets, and if that person
43 fails to do so, the court may hold that person in contempt.

44 (4) Notwithstanding ORS 33.105, the term of confinement for contempt for nonpayment of fines
45 or failure to make restitution shall be set forth in the commitment order, and shall not exceed one

1 day for each \$25 of the fine or restitution, 30 days if the fine or order of restitution was imposed
2 upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the
3 shorter period.

4 (5)(a) If it appears to the satisfaction of the court that the default in the payment of [*a fine or*]
5 restitution is not contempt, the court may enter an order allowing the defendant additional time for
6 payment, reducing the amount of the payment or installments due on the payment, or revoking the
7 [*fine or*] order of restitution in whole or in part.

8 **(b) A defendant who has been sentenced to pay a fine and who is not in contumacious**
9 **default in the payment of the fine may at any time petition the court that sentenced the**
10 **defendant for remission of the payment of the fine or of any unpaid portion of the fine. Upon**
11 **receiving a petition described in this paragraph, the court shall proceed under section 1 of**
12 **this 2025 Act.**

13 (6) A default in the payment of a fine or costs or failure to make restitution or a default on an
14 installment on a fine, costs or restitution may be collected by any means authorized by law for the
15 enforcement of a judgment. The levy of execution or garnishment for the collection of a fine or
16 restitution shall not discharge a defendant confined for contempt until the amount of the fine or
17 restitution has actually been collected.

18 (7) The court, or the court clerk if ordered by the court, may report a default on a court-ordered
19 payment to a consumer reporting agency.

20 (8) The Chief Justice of the Supreme Court shall adopt rules under ORS 1.002 establishing poli-
21 cies and procedures for reporting a default under subsection (7) of this section to a consumer re-
22 porting agency that may include, but are not limited to, limitations on reporting a default to a
23 consumer reporting agency.

24 (9) Except as otherwise provided in this section, proceedings under this section shall be con-
25 ducted:

26 (a) As provided in ORS 33.055, if the court seeks to impose remedial sanctions as described in
27 ORS 33.015 to 33.155; and

28 (b) As provided in ORS 33.065, if the court seeks to impose punitive sanctions as described in
29 ORS 33.015 to 33.155.

30 (10) Confinement under this section may be custody or incarceration, whether actual or con-
31 structive.

32 (11) As used in this section:

33 (a) "Consumer reporting agency" means any person that regularly engages for fees, dues, or on
34 a nonprofit basis, in whole or in part, in the practice of assembling or evaluating consumer credit
35 information or other information on consumers for the purpose of furnishing consumer reports to
36 third parties.

37 (b) "Restitution" has the meaning given that term in ORS 137.103.

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