TITLE 14

PROCEDURE IN CRIMINAL MATTERS GENERALLY

Chapter 131

2001 EDITION

Preliminary Provisions; Limitations; Jurisdiction; Venue; Crime Prevention

TASK FORCE ON COMPUTER CRIME GRANT PROGRAMS

(Temporary provisions relating to Task Force on Computer Crime Grant Programs are compiled as a note preceding ORS 131.005)

LAW ENFORCEMENT CONTACTS POLICY AND DATA REVIEW COMMITTEE

(Temporary provisions relating to Law Enforcement Contacts Policy and Data Review Committee are compiled as notes preceding ORS 131.005)

CRIMINAL FORFEITURE PROCEDURE

(Temporary provisions relating to Criminal Forfeiture Procedure are compiled as notes preceding ORS 131.005)

PRELIMINARY PROVISIONS

TIME LIMITATIONS

TASK FORCE ON COMPUTER CRIME GRANT PROGRAMS

Note: Section 1, chapter 963, Oregon Laws 2001, provides:

Sec. 1. (1) There is created a Task Force on Computer Crime Grant Programs consisting of five members who shall be appointed by the Governor no later than October 1, 2001. The Governor shall select members who are district attorneys, representatives of state and local law enforcement or persons with expertise in computer crime.

(2) The purpose of the task force is to ensure that this state can provide assurances to the Attorney General of the United States that this state meets the requirements of the Computer Crime Enforcement Act (P.L. 106-572) to be eligible to receive grants under the Act.

(3) The task force shall:

(a) Conduct an assessment of state and local resource needs, including criminal justice resources devoted to the investigation and enforcement of computer crime laws; and

(b) Develop a plan for coordinating programs that are funded under the Computer Crime Enforcement Act (P.L. 106-572) with other federally funded technical assistance and training programs.

(4) The task force shall present a report of its findings to the Governor and to the appropriate house or joint interim committee not later than June 30, 2002.

(5) The Department of Justice shall provide staff necessary for the performance of the functions of the task force. The task force shall use the services of permanent legislative staff to the greatest extent practicable.

(6) Members of the task force are not entitled to compensation and expenses and shall serve on the task force on a volunteer basis.

(7) All agencies, departments and officers of this state are directed to assist the task force in the performance of its functions and to furnish such information and advice as the members of the task force consider necessary to perform their functions.

(8) The task force may accept contributions of funds and assistance from any source, public or private, and agree to conditions thereon not inconsistent with the purposes of the task force. All such funds are to aid in financing the functions of the task force and shall be deposited in the Department of Justice Operating Account created in ORS 180.180 and shall be continuously appropriated to the Task Force on Computer Crime Grant Programs for the purpose for which contributed.

(9) Official action by the task force shall require the approval of a majority of the members of the task force. All legislation recommended by official action of the task force must indicate that it is introduced at the request of the task force. Such legislation shall be prepared in time for presession filing pursuant to ORS 171.130, for presentation to the regular session of the Seventy-second Legislative Assembly. [2001 c.963 §1]

LAW ENFORCEMENT CONTACTS POLICY AND DATA REVIEW COMMITTEE

Note: Sections 5 to 11, chapter 687, Oregon Laws 2001, provide:

Sec. 5. The Legislative Assembly finds and declares that:

(1) Surveys of the trust and confidence placed by Oregonians in state and local law enforcement indicate that there are Oregonians who believe that some law enforcement officers have engaged in practices that inequitably and unlawfully discriminate against individuals solely on the basis of their race, color or national origin.

(2) State and local law enforcement agencies can perform their missions more effectively when all Oregonians have trust and confidence that law enforcement stops and other contacts with individuals are free from inequitable and unlawful discrimination based on race, color or national origin.

(3) Representatives of community interest groups and state and local law enforcement agencies agree that collecting certain demographic data about contacts between individuals and state or local law enforcement officers will provide a statistical foundation to ensure that future contacts are free from inequitable and unlawful discrimination based on race, color or national origin.

(4) Demographic data collection can establish a factual and quantifiable foundation for measuring progress in eliminating discrimination based on race, color or national origin during law enforcement stops and other contacts with individuals, but data collection alone does not provide a sufficient basis for corrective action. Proper analysis of the demographic data and enactment of meaningful reforms in response to the results of that analysis require careful consideration of all relevant factors including the context of the community in which the data has been collected.

(5) It is the goal of this state that all law enforcement agencies perform their missions without inappropriate use of race, color or national origin as the basis for law enforcement actions. This goal may be achieved by providing assistance to state and local law enforcement agencies and the communities that they serve.

(6) This state shall foster, encourage and support the collection and analysis of demographic data by state and local law enforcement agencies. [2001 c.687 §5]

Sec. 6. (1) There is created the Law Enforcement Contacts Policy and Data Review Committee consisting of 11 members appointed by the Governor on or before October 1, 2001.

(2) The purpose of the committee is to receive and analyze demographic data to ensure that law enforcement agencies perform their missions without inequitable or unlawful discrimination based on race, color or national origin.

(3) To achieve its purpose, the committee shall collect and analyze demographic data to:

(a) Provide information to assist communities and state and local law enforcement agencies in evaluating the policies, training and procedures of law enforcement agencies regarding the treatment of individuals during stops and other contacts with law enforcement;

(b) Inform state and local law enforcement agencies and communities about law enforcement practices; and

(c) Provide opportunities for communities and state and local law enforcement agencies to work together to increase public trust and confidence in law enforcement and to enhance the capacity of communities and law enforcement agencies to provide more effective public safety services.

(4) The committee shall:

(a) Solicit demographic data concerning law enforcement stops and other contacts between state and local law enforcement agencies and individuals;

(b) Publicize programs, procedures and policies from communities that have made progress toward eliminating discrimination based on race, color or national origin during law enforcement stops and other contacts with individuals;

(c) Provide technical assistance, including refinement of the minimum data elements as necessary for effective analysis, to state and local law enforcement agencies that desire to begin collecting demographic data;

(d) Provide technical assistance to communities and state and local law enforcement agencies that desire to engage in local efforts to involve individuals in the establishment and implementation of programs, procedures and policies that will advance the goal of section 5 of this 2001 Act;

(e) Obtain resources for independent analysis and interpretation of demographic data collected by state or local law enforcement agencies;

(f) Accept and analyze demographic data collected by a state or local law enforcement agency if requested by a state or local law enforcement agency and if resources are available; and

(g) Report to the public the results of analyses of demographic data.

(5) In carrying out its purpose, the committee may not receive or analyze any data unless the data for each reported contact includes at least the following information:

(a) The reason for the law enforcement stop or other contact;

(b) The law enforcement officer's perception of the race, color or national origin of the individual involved in the contact;

(c) The individual's gender;

(d) The individual's age;

(e) Whether a search was conducted in connection with the contact, and if so, what resulted from the search;

(f) The disposition of the law enforcement action, if any, resulting from the contact; and

(g) Additional data as recommended by the committee that state and local law enforcement agencies should collect and submit.

(6) Data received by the committee for analysis under this section may not identify a particular law enforcement officer or a particular individual whose demographic data is collected by a state or local law enforcement agency.

(7) Members of the committee shall appoint a chairperson from the members of the committee. Members of the committee are not entitled to compensation or expenses and shall serve on the committee on a volunteer basis.

(8) The Oregon Criminal Justice Commission shall provide administrative support staff necessary to the performance of the functions of the committee.

(9) All agencies, departments and officers of this state are requested to assist the committee in the performance of its functions and to furnish such information and advice as the members of the committee consider necessary to perform their functions.

(10) The committee shall make findings and issue recommendations for action to achieve the purpose of this section. The committee shall submit a report containing its findings and recommendations to the appropriate interim legislative committees on or before December 1, 2002, and annually thereafter on or before December 1.

(11) After completion of the analysis of the data from at least two state or local law enforcement agencies, the committee may recommend the collection of additional data elements.

(12) This section does not prohibit a state or local law enforcement agency from collecting data in addition to the minimum information required in subsection (5) of this section. [2001 c.687 §6]

Sec. 7. The Oregon Criminal Justice Commission shall provide $300,000 to the Law Enforcement Contacts Policy and Data Review Committee for the purposes of section 6 of this 2001 Act from moneys allocated to the Oregon Criminal Justice Commission by the Legislative Assembly for the biennium beginning July 1, 2001. [2001 c.687 §7]

Sec. 8. The Oregon Criminal Justice Commission may accept contributions of funds from the United States, its agencies, or from any other source, public or private, and agree to conditions thereon not inconsistent with the purposes of the Law Enforcement Contacts Policy and Data Review Committee. [2001 c.687 §8]

Sec. 9. All moneys received by the Oregon Criminal Justice Commission under section 8 of this 2001 Act shall be paid into the State Treasury and deposited into the General Fund to the credit of the Oregon Criminal Justice Commission. Such moneys are appropriated continuously to the Oregon Criminal Justice Commission for the purposes of section 6 of this 2001 Act. [2001 c.687 §9]

Sec. 10. The Law Enforcement Contacts Policy and Data Review Committee shall assist the Oregon Progress Board in the creation and adoption of goals as provided in ORS 285A.168 to measure progress toward the purpose of the committee under

section 6 of this 2001 Act. [2001 c.687 §10]

Sec. 11. Sections 5 to 10 of this 2001 Act are repealed on December 31, 2007. [2001 c.687 §11]

CRIMINAL FORFEITURE PROCEDURE

Note: Sections 1 to 19, 55 and 57, chapter 666, Oregon Laws 2001, provide:

Sec. 1. As used in sections 1 to 18 of this 2001 Act, unless the context requires otherwise:

(1) "Acquiesce in prohibited conduct" means that a person knew of the prohibited conduct and knowingly failed to take reasonable action under the circumstances to terminate or avoid the use of the property in the course of prohibited conduct. For purposes of this subsection, "reasonable action under the circumstances" includes, but is not limited to:

(a) Reporting the prohibited conduct to a law enforcement agency;

(b) Commencing action that will assert the rights of the affiant as to the property interest;

(c) Terminating a rental agreement; or

(d) Seeking an abatement order under the provisions of ORS 105.505 to 105.520 or 105.550 to 105.600, or under any ordinance or regulation allowing abatement of nuisances.

(2) "All persons known to have an interest" means:

(a) Any person who has, prior to the time the property is seized for criminal forfeiture, filed notice of interest with any public office as may be required or permitted by law to be filed with respect to the property that has been seized for criminal forfeiture;

(b) Any person from whose custody the property was seized; or

(c) Any person who has an interest in the property, including all owners and occupants of the property, whose identity and address is known or is ascertainable upon diligent inquiry and whose rights and interest in the property may be affected by the action.

(3) "Attorney fees" has the meaning given that term in ORCP 68 A.

(4) "Financial institution" means any person lawfully conducting business as:

(a) A financial institution or trust company, as those terms are defined in ORS 706.008;

(b) A consumer finance company subject to the provisions of ORS chapter 725;

(c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mortgage servicing company or other mortgage company;

(d) An officer, agency, department or instrumentality of the federal government, including but not limited to:

(A) The Secretary of Housing and Urban Development;

(B) The Federal Housing Administration;

(C) The Veterans Administration;

(D) The Farmers Home Administration;

(E) The Federal National Mortgage Association;

(F) The Government National Mortgage Association;

(G) The Federal Home Loan Mortgage Association;

(H) The Federal Agricultural Mortgage Corporation; and

(I) The Small Business Administration;

(e) An agency, department or instrumentality of this state, including but not limited to:

(A) The Housing and Community Services Department;

(B) Any entity established by the Director of Veterans' Affairs to carry out the provisions of ORS chapter 407; and

(C) The Public Employees Retirement System;

(f) An agency, department or instrumentality of any municipality in this state, including but not limited to such agencies as the Portland Development Commission;

(g) An insurer as defined in ORS 731.106;

(h) A private mortgage insurance company;

(i) A pension plan or fund or other retirement plan; and

(j) A broker-dealer or investment adviser representative as defined in ORS 59.015.

(5) "Forfeiture counsel" means an attorney designated to represent a seizing agency in criminal forfeiture actions or proceedings.

(6) "Instrumentality" means property that is used or intended for use in prohibited conduct or that facilitates prohibited conduct.

(7) "Law enforcement agency" means any agency that employs police officers or prosecutes criminal cases.

(8) "Official law enforcement use" means a use that may reasonably be expected to result in the identification, apprehension or conviction of criminal offenders.

(9) "Police officer" has the meaning given that term in ORS 133.525.

(10) "Proceeds of prohibited conduct" means property derived directly or indirectly from, maintained by or realized through an act or omission that constitutes prohibited conduct, and includes any benefit, interest or property of any kind without reduction for expenses of acquiring or maintaining it or incurred for any other reason.

(11) "Prohibited conduct":

(a) For purposes of proceeds, means a felony or a Class A misdemeanor.

(b) For purposes of instrumentalities, means any crime listed in section 19 of this 2001 Act.

(12) "Property" means any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.

(13) "Seizing agency" means a law enforcement agency that has seized property for criminal forfeiture.

(14) "Weapon" means any instrument of offensive or defensive combat or anything used, or designed to be used, to destroy, defeat or injure a person. [2001 c.666 §1]

Sec. 2. (1) The Legislative Assembly finds that:

(a) Prohibited conduct is undertaken in the course of activities that result in, and are facilitated by, the acquisition, possession or transfer of property subject to criminal forfeiture under sections 1 to 18 of this 2001 Act;

(b) Transactions involving property subject to criminal forfeiture under sections 1 to 18 of this 2001 Act escape taxation;

(c) Perpetrators of crimes should not be allowed to keep the proceeds and instrumentalities of their crimes;

(d) Governments attempting to respond to prohibited conduct require additional resources to meet their needs; and

(e) There is a need to provide for the forfeiture of certain property subject to criminal forfeiture under sections 1 to 18 of this 2001 Act, to provide for the protection of the rights and interests of affected persons and to provide for uniformity throughout this state with respect to the laws of this state that pertain to the criminal forfeiture of real and personal property based upon prohibited conduct.

(2) Sections 1 to 18 of this 2001 Act do not impair the right of any city or county to enact ordinances providing for the criminal forfeiture of property based upon prohibited conduct if:

(a) The property was used to commit the conduct described in the ordinances, or constitutes proceeds of the conduct; and

(b) The criminal forfeiture is subject to procedures and limitations set forth in sections 1 to 18 of this 2001 Act.

(3) Nothing in sections 1 to 18 of this 2001 Act may be construed to limit or impair any right or remedy that any person or entity may have under ORS 166.715 to 166.735. Criminal forfeiture is a remedy separate and apart from any other criminal penalty and from civil forfeiture or any other civil penalty. [2001 c.666 §2]

Sec. 3. Subject to sections 1 to 18 of this 2001 Act, all right, title and interest in property forfeited under sections 1 to 18 of this 2001 Act vest in the seizing agency upon commission of the prohibited conduct. [2001 c.666 §3]

Sec. 4. The following are subject to criminal forfeiture:

(1) All controlled substances that have been manufactured, distributed, dispensed, possessed or acquired in the course of prohibited conduct;

(2) All raw materials, products and equipment of any kind that are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct;

(3) All property that is used, or intended for use, as a container for property described in subsection (1) or (2) of this section;

(4) All conveyances, including aircraft, vehicles and vessels, that are used, or are intended for use, to transport or facilitate the transportation, sale, receipt, possession or concealment of property described in subsection (1) or (2) of this section, and all conveyances, including aircraft, vehicles and vessels, that are used or intended for use in prohibited conduct or to facilitate prohibited conduct, except that:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to criminal forfeiture under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct; and

(b) No conveyance is subject to criminal forfeiture under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state;

(5) All books, records, computers and research, including formulae, microfilm, tapes and data that are used or intended for use to facilitate prohibited conduct;

(6) All moneys, negotiable instruments, balances in deposit or other accounts, securities or other things of value furnished or intended to be furnished by any person in the course of prohibited conduct, all proceeds of or from prohibited conduct, and all moneys, negotiable instruments, balances in deposit and other accounts and securities used or intended to be used to facilitate any prohibited conduct;

(7) All real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used to commit or facilitate the commission of prohibited conduct;

(8) All weapons possessed, used or available for use to facilitate conduct giving rise to criminal forfeiture;

(9) All property described in this section that is intended for use in committing or facilitating an attempt to commit a crime as described in ORS 161.405, a solicitation as described in ORS 161.435 or a conspiracy as described in ORS 161.450; and

(10) All personal property that is used or intended to be used to commit or facilitate prohibited conduct. [2001 c.666 §4]

Sec. 5. (1) A person who delivers property in obedience to an order or direction to deliver the property under this section is not liable:

(a) To any person on account of obedience to the order or direction; or

(b) For any costs incurred on account of any contamination of the delivered property. This includes, but is not limited to,

any disposal costs for any property forfeited under section 4 of this 2001 Act, any hazardous waste or material, any contraband or any other contamination contained in property seized under this section.

(2) In addition to seizures authorized by ORS 133.535, a police officer may seize property without a court order if the police officer has probable cause to believe that the property is subject to criminal forfeiture.

(3) Except as provided in section 6 of this 2001 Act, with regard to cash or other assets that at the time of seizure are held in any form of account in a financial institution, if the property is in whole or in part intangible, the person having control or custody of the property shall deliver the same over to the police officer.

(4)(a) A police officer may seize property pursuant to an order of the court. Forfeiture counsel or a seizing agency may apply for an ex parte order directing seizure of specified property.

(b) Application may be made to any judge as defined in ORS 133.525. The application must be supported by one or more affidavits setting forth the facts and circumstances tending to show where the objects of the seizure are to be found. The court shall issue the order upon a finding of probable cause to believe that the described property is subject to criminal forfeiture. The order may be set out on the face of a search warrant.

(c) Except as provided in section 6 of this 2001 Act, with regard to cash or other assets that at the time of seizure are held in any form of account in a financial institution, if the property is in whole or in part intangible, the order shall direct any person having control or custody of the property to deliver the same over to the seizing agency or to the court to abide judgment.

(5) Property may be constructively seized by posting notice of seizure for criminal forfeiture on it or by filing notice of seizure for criminal forfeiture or notice of pending criminal forfeiture in the public records that impart constructive notice of matters relating to such property. A notice that is filed must include a description of the property that is the subject of the seizure. Real property, including interests arising out of land sale contracts, may be seized only upon recording a notice of seizure containing a legal description of the property in the mortgage records of the county in which the real property is located.

(6) Promptly upon seizure, the officer who seized the property shall make an inventory of the property seized and shall deliver a receipt embodying the inventory to the person from whose possession the property is taken or to the person in apparent control of the property at the time it is seized. If the property is unoccupied or there is no one present in apparent control, the officer shall leave the receipt suitably affixed to the property. If the property is physically removed from the location of seizure and it is unoccupied or there is no one present in apparent control, then the officer shall promptly file the receipt in the public records of the seizing agency. Every receipt prepared under this subsection shall contain, in addition to an inventory of the property seized, the following information:

(a) The identity of the seizing agency; and

(b) The address and telephone number of the office or other place where the person may obtain further information concerning the criminal forfeiture.

(7) In the event that property is seized from the possession of a person who asserts a possessory lien over such property pursuant to applicable law, notwithstanding any other provision of law, any lien of the person from whom the property was seized remains in effect and is enforceable as fully as though the person had retained possession of the property. [2001 c.666 §5]

Sec. 6. (1)(a) Except as otherwise provided in sections 1 to 18 of this 2001 Act, property seized for criminal forfeiture is not subject to replevin, conveyance, sequestration or attachment. The seizure of property or the commencement of a criminal forfeiture proceeding under sections 1 to 18 of this 2001 Act does not abate, impede or in any way delay the initiation or prosecution of a suit or action by a financial institution for the possession of seized property in which the financial institution has or purports to have a lien or security interest or for the foreclosure of such lien or security interest. A financial institution may proceed with any suit or action involving property in which it has a lien or security interest even though a seizure has occurred and criminal forfeiture proceedings have been or will be commenced. If property that may be subject to criminal forfeiture is sold prior to the conclusion of the forfeiture proceedings, the sheriff, trustee or other person who is conducting the sale and who has actual notice of the forfeiture proceedings shall distribute the sale proceeds as follows:

(A) To the expenses of the sale;

(B) To the payment of the obligations owed to the foreclosing financial institution that are secured by the property and to any other person whose lien or security interest in the property has been foreclosed in the suit or action in the order determined by the court; and

(C) The surplus, if any, shall be distributed to the seizing agency, or to the court in which the forfeiture proceedings are pending.

(b) The sheriff, trustee or other person who distributes the sale proceeds as provided in this subsection is not liable to any person who has or asserts an interest in the property.

(2) Within 30 days following seizure of property for criminal forfeiture, the seizing agency, in consultation with the district attorney of the county in which the property was seized for forfeiture, shall determine whether it will seek the forfeiture of the property. If the seizing agency elects not to seek forfeiture, it shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens arising under ORS 87.152 to 87.162 that have attached to the property since its seizure and release the property. The property may be released to a person other than the person from whose custody or control the property was taken if the seizing agency or forfeiture counsel first mails to the last-known addresses of all persons known to have an interest in the property a notice of intent to release the property. The notice

must specify the person to whom the property is to be released and must detail the time and place of the release. An agency that complies with the provisions of this subsection by paying costs and expenses of towing and storage, discharging possessory liens, mailing any required notices and releasing the property is not liable for its actions under this subsection or for any consequences thereof.

(3) A seizing agency shall, pending criminal forfeiture and final disposition and subject to the need to retain the property in any criminal proceeding, provide that property in the physical custody of the seizing agency be serviced or maintained as may be reasonably appropriate to preserve the value of the property.

(4) A seizing agency may, pending criminal forfeiture and final disposition and subject to the need to retain seized property in any criminal proceeding:

(a) Provide that the seized property be transferred for criminal forfeiture to any city, county, state or federal agency with criminal forfeiture authority, provided that no such transfer may have the effect of diminishing or reducing the rights of any third party under sections 1 to 18 of this 2001 Act.

(b) Apply to the court for an order providing that the seized property may be sold, leased, rented or operated in the manner and on the terms that may be specified in the court's order. The court shall deny any application unless the sale, lease, rental or operation of the property will be conducted in a commercially reasonable manner and will not result in a material reduction of the property's value. The court may enter an order only:

(A) After notice and opportunity to be heard is provided to all persons known to have or to claim an interest in the property; and

(B) With the consent of all persons holding security interests of record in the property.

(c) Provide that the seized property be removed to a storage area for safekeeping.

(5) Unless otherwise ordered by the court, the seizing agency shall hold the proceeds of the sale, leasing, renting or operation under subsection (4) of this section and the rights of holders of security interests of record in the property attach to the proceeds of the sale, leasing, renting or operation in the same order of priority as interests attached to the property.

(6)(a) Except as provided in paragraph (b) of this subsection and except for currency with apparent or known intrinsic collector value, all cash seized for criminal forfeiture, together with all cash received from the sale, leasing, renting or operation of the property, must be immediately deposited in an insured interest-bearing forfeiture trust account or accounts maintained by the seizing agency exclusively for this purpose. Cash may be retained as evidence in a criminal proceeding but must be deposited immediately when the need to retain it as evidence is discharged.

(b) Notwithstanding paragraph (a) of this subsection, all cash seized for criminal forfeiture that at the time of seizure is deposited in any form of account in a financial institution may remain in the account in the financial institution. From the time of seizure until the criminal forfeiture proceeding is abandoned, or until a court ultimately enters a judgment granting or denying criminal forfeiture or enters a judgment of dismissal, all deposits except the deposit of interest by the financial institution, withdrawals or other transactions involving the account are prohibited, unless approved by the court.

(c) Subject to any court order, interest earned upon cash deposited in a forfeiture trust account or held in an account in a financial institution under this subsection must be disbursed as follows:

(A) If the criminal forfeiture proceeding is abandoned, or if the court ultimately enters a judgment denying criminal forfeiture or a judgment of dismissal, the seizing agency shall pay any interest earned, together with the cash deposited in the forfeiture trust account in connection with the seizure in question, to the person from whom it was seized, and the seizing agency shall release any interest earned, together with the cash deposited in an account in a financial institution, to the person from whom it was seized.

(B) If a judgment of criminal forfeiture is entered, but parties other than the seizing agency establish rights to portions of the amount that are in the aggregate larger than or equal to the cash on deposit plus interest earned thereon, the seizing agency shall disburse the interest, together with the cash on deposit, to the parties in the order of their priority.

(C) If a judgment of criminal forfeiture is entered and the total amount arising out of the seizure that is on deposit in the forfeiture trust account or in an account in a financial institution, including interest earned on moneys deposited, is greater than the aggregate amount needed to satisfy the established interests of security interest holders, lienholders and other claimants, the seizing agency shall retain the balance remaining after payment by the seizing agency to parties.

(7) If the property seized for criminal forfeiture consists of stocks, bonds, promissory notes or other security or evidence of indebtedness, and the property is held in some form of account in a financial institution, the property may remain in the account pending a final decision in the criminal forfeiture proceedings. Unless otherwise allowed by order of the court, no transactions involving the account may be permitted other than the deposit or reinvestment of dividends or other normally recurring payments on the property. Any accrual to the value of the property during the pendency of criminal forfeiture proceedings must be disbursed in the manner provided for the disbursement of interest under subsection (6) of this section.

(8) When property has been seized for criminal forfeiture or a notice of criminal forfeiture has been filed, an owner of or interest holder in the property may file a motion seeking an order to show cause. The motion must be filed no later than 15 days after the owner or interest holder received notice or actual knowledge of the seizure, whichever is earlier. At the time a person files a motion under this subsection, the person must serve a copy of the motion on the forfeiture counsel and the defendant, if any. When a motion is filed under this subsection, the court shall issue an order to show cause to the seizing agency for a hearing on the sole issue of whether probable cause for criminal forfeiture of the property exists. If the court finds that there is no probable cause for criminal forfeiture of the property, the property seized for criminal forfeiture or subjected to the notice of criminal forfeiture must be released pending the outcome of a judicial proceeding under section 12 of this 2001

Act. As used in this subsection, “owner” or “interest holder” does not include the defendant. [2001 c.666 §6]

Sec. 7. (1) Whenever a seizing agency intends to forfeit any real property under sections 1 to 18 of this 2001 Act, the seizing agency may have recorded by the county clerk or other recorder of deeds of every county in which any part of the premises or real property lies a notice of intent to forfeit real property under ORS 205.246. The notice must contain the legal description of the real property, the common address of the property, if any, and the name of the forfeiture counsel. From the time of recording the notice, and from that time only, the intent to forfeit is notice to purchasers and holders of encumbrances of the rights and equities in the premises of the party filing the notice. The notice must be recorded in the same book and in the same manner in which mortgages are recorded and may be discharged in like manner as mortgages are discharged, either by such party or the attorney signing the notice.

(2) Unless otherwise prescribed by law, a seizing agency recording a notice of intent to forfeit shall use substantially the following form:

NOTICE OF INTENT
TO FORFEIT

Pursuant to section 7 of this 2001 Act, the undersigned states:

That I, _____do declare that it is my intent to initiate criminal forfeiture proceedings on the following described real property:

1. The description of the real property to be affected is:

_____
_____
_____
_____
_____

2. The common address of the property, if any, is:

_____
_____
_____

Dated this ___ day of _____, ___.

This notice of intent to file forfeiture will expire on the ___ day of _____, ___, absent future filings.

Name of agency seeking forfeiture

_____

Name of Forfeiture Counsel

_____

Address

_____
_____
_____

Telephone Number

_____

State of Oregon)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ___ day of _____, ___.

_____
Notary Public for Oregon
My commission expires _____.

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(3) The notice of intent to forfeit property expires 30 days after the date of filing absent future filings to perfect. [2001 c.666 §7]

Sec. 8. (1) As soon as practicable after seizure for criminal forfeiture, the seizing agency shall review the inventory prepared by the police officer under section 5 of this 2001 Act. Within 15 days after seizure for criminal forfeiture, the forfeiture counsel shall file a criminal information or an indictment alleging facts sufficient to establish that the property is subject to criminal forfeiture. Within 15 days after seizure for criminal forfeiture, the seizing agency or forfeiture counsel shall prepare a notice of seizure for criminal forfeiture containing a copy of the inventory prepared pursuant to section 5 of this 2001 Act, the identity of the person from whom the property was seized, the name, address and telephone number of the seizing agency and the address and telephone number of the office or other place where further information concerning the seizure and criminal forfeiture may be obtained, and shall make reasonable efforts to serve the notice of seizure for criminal forfeiture on all persons, other than the defendant, known to have an interest in the seized property. A person may be served as provided in ORCP 7 D except that the notice must also include information regarding the right to file a claim under subsection (2) of this section, if applicable, and the deadline for filing the claim. If the property is cash in the amount of $1,000 or less or if the fair market value of the property is $1,000 or less, the seizing agency may publish notice of seizure for criminal forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to (d). In all other cases, the seizing agency shall publish notice of seizure for criminal forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to (d). The seizing agency shall provide a copy of the notice, inventory and estimate of value to the forfeiture counsel.

(2) Except as otherwise provided in section 11 (1) to (3) of this 2001 Act, if notice of seizure for criminal forfeiture:

(a) Is given in a manner other than by publication, any person, other than the defendant, claiming an interest in the property must file a claim with the forfeiture counsel within 21 days after service of notice of seizure for criminal forfeiture.

(b) Is published, any person, other than the defendant, claiming an interest in the property must file a claim with the forfeiture counsel within 21 days after the last publication date.

(3) An extension for the filing of a claim under subsection (2) of this section may not be granted. The claim must be signed by the claimant under penalty of perjury and must set forth all of the following:

(a) The true name of the claimant;

(b) The address at which the claimant will accept future mailings from the court or the forfeiture counsel; and

(c) A statement that the claimant has an interest in the seized property.

(4) If a seizing agency publishes notice of seizure for criminal forfeiture in a newspaper in the manner provided by subsection (1) of this section, the agency may include in a single publication as many notices of criminal forfeiture as the agency considers convenient. The publication may contain a single statement of matters from the notices of criminal forfeiture that are common to all of the notices and that would otherwise result in needless repetition. The publication must contain for each notice of criminal forfeiture a separate copy of the inventory prepared pursuant to section 5 of this 2001 Act and a separate statement of the identity of the person from whose custody the property was seized. The published inventory need not contain estimates of value for the property seized. [2001 c.666 §8]

Sec. 9. (1) A person, other than the defendant, claiming an interest in property seized under sections 1 to 18 of this 2001 Act may file a petition for an expedited hearing within 15 days after notice of seizure for criminal forfeiture or within such further time as the court may allow for good cause shown.

(2) A petition for an expedited hearing must contain a claim if no claim has previously been filed. The petition must reflect whether the petitioner seeks one or more of the following:

(a) A determination at the hearing that the petitioner is a bona fide purchaser for value and did not acquiesce in the prohibited conduct.

(b) An order restoring custody of seized property to the petitioner during the pendency of the proceedings if the court finds, by a preponderance of the evidence, that it is probable that the property will remain available for forfeiture at the completion of the proceedings and that there is a reasonable possibility that the petitioner will ultimately prevail in the proceeding.

(c) Appointment of a receiver.

(3) A person filing a petition under this section shall serve a copy of the petition on all persons known to have an interest. Service must be accomplished as provided in ORCP 7 D. Service by publication is not required prior to an expedited hearing.

(4) The court shall hold a hearing within 15 days after service of all persons known to have an interest or at such later time as the court may allow for good cause shown. The hearing is limited to:

(a) Deciding whether the petitioner can prove that the petitioner is a bona fide purchaser for value and did not acquiesce in the prohibited conduct;

(b) Determining whether an order should be entered directing the return of the seized property to the claimant during the pendency of the hearing; and

(c) Determining whether an order should be entered directing the appointment of a receiver to manage property seized pursuant to sections 1 to 18 of this 2001 Act pending a final determination as to the disposition of the property, if the petitioner or the seizing agency requests that order.

(5) The parties to a proceeding under section 12 of this 2001 Act may at any time stipulate to the entry of an order restoring custody of seized property to a petitioner who claims an interest in the property. The order must comply with the requirements of section 10 (1) of this 2001 Act. [2001 c.666 §9]

Sec. 10. (1) An order restoring custody to a petitioner under section 9 of this 2001 Act shall:

(a) Prohibit the petitioner from using the property in unlawful conduct of any kind, or from allowing the property to be used by any other person in unlawful conduct;

(b) Require the petitioner to service and maintain the property as may be reasonably appropriate to preserve the value of the

property; and

(c) Require the petitioner to inform the court of the exact location of the property at the time of any judicial proceeding under section 12 of this 2001 Act and to deliver the property to the seizing agency immediately upon the issuance of a judgment of criminal forfeiture.

(2) An order restoring custody to a petitioner under section 9 of this 2001 Act may include such other requirements as the court finds appropriate pending a final determination as to the disposition of the property.

(3) An order restoring custody to a petitioner under section 9 of this 2001 Act is enforceable by a contempt proceeding brought on the relation of forfeiture counsel, by a further order directing the petitioner to deliver the property to the custody of the seizing agency, by an order awarding to the seizing agency its reasonably incurred attorney fees, costs and investigative expenses, and by such other remedies or relief as the court finds appropriate. [2001 c.666 §10]

Sec. 11. (1)(a) A financial institution holding an interest in property seized under sections 1 to 18 of this 2001 Act shall respond to a notice of seizure for criminal forfeiture by filing an affidavit with the court establishing that the financial institution's interest in the property was acquired:

(A) In the regular course of business as a financial institution;

(B) For valuable consideration;

(C) Without knowledge of the prohibited conduct;

(D) In good faith and without intent to defeat the interest of any potential seizing agency; and

(E) With respect to personal property, prior to the seizure of the property, or with respect to real property, recorded prior to the recording of notice of the seizure of the real property in the mortgage records of the county in which the real property is located.

(b) Failure to file an affidavit constitutes a default. The affidavit must be filed within 30 days from the date of service under section 8 of this 2001 Act.

(2) Notwithstanding the provisions of subsection (1) of this section, any person, other than a financial institution, who transfers or conveys an interest in real property pursuant to a contract for transfer or conveyance of an interest in real property as defined in ORS 93.905 and who retains an interest in the real property, or any successor in interest, may respond to a notice of seizure for criminal forfeiture by filing an affidavit with the court establishing that the person:

(a) Received the interest in return for valuable consideration or by way of devise or intestate succession;

(b) Had no knowledge at the time of transfer or conveyance of the prohibited conduct;

(c) Acted in good faith and without intent to defeat the interest of any potential seizing agency;

(d) Recorded the interest in the mortgage records of the county in which the real property is located prior to the recording of any notice of intent to seize or notice of seizure; and

(e) Continued to hold the interest without acquiescing in the prohibited conduct.

(3) The affidavit permitted by subsection (2) of this section must be filed within 30 days from the date of service under section 8 of this 2001 Act. Failure to file an affidavit as set forth in subsection (2) of this section constitutes a default.

(4) In response to an affidavit filed under subsection (2) of this section, the seizing agency may controvert any or all of the assertions made in the affidavit. The affidavit of the seizing agency must be filed with the court within 20 days after the date the affidavit is filed under subsection (2) of this section. The transferor, conveyor or successor in interest may respond, within five days after the filing of the affidavit of the seizing agency, with a supplemental affidavit limited to the matters stated in the affidavit of the seizing agency. If the seizing agency does not file an affidavit within the time allowed, the transferor, conveyor or successor in interest is considered to be a financial institution for all purposes under sections 1 to 18 of this 2001 Act.

(5) If the seizing agency files an affidavit under subsection (4) of this section, the court shall decide the issues raised in the affidavit in a proceeding under section 12 of this 2001 Act. [2001 c.666 §11]

Sec. 12. (1) If a district attorney decides to proceed with a criminal forfeiture, the district attorney must present the criminal forfeiture to the grand jury for indictment. The indictment must allege facts sufficient to establish that the property is subject to criminal forfeiture and must comply with ORS 132.510, 132.540, 132.550, 132.557, 132.560 and 132.580.

(2) If the grand jury returns an indictment for criminal forfeiture, the defendant may admit or deny that the property is subject to criminal forfeiture. If the defendant fails to admit or deny that the property is subject to forfeiture, the court shall enter a denial on behalf of the defendant.

(3) When the underlying criminal conduct is a Class A misdemeanor, a city or county attorney may prosecute a criminal forfeiture by filing an information in the municipal or justice court.

(4) A criminal forfeiture proceeding and the underlying criminal case must be tried in the same proceeding.

(5) The criminal procedure laws of this state apply to criminal forfeiture proceedings.

(6) The court shall enter a judgment of criminal forfeiture if the forfeiture counsel proves beyond a reasonable doubt that the property for which forfeiture is sought is an instrumentality or the proceeds of the crime of conviction or past prohibited conduct that is similar to the crime of conviction.

(7) No later than 21 days after the entry of a judgment of criminal forfeiture under this section, the forfeiture counsel shall notify by mail all persons who filed claims under section 8 of this 2001 Act or affidavits under section 11 of this 2001 Act of the judgment of criminal forfeiture. The notice must inform the person of the requirements of subsection (8) of this section.

(8) If a person who receives notice under subsection (7) of this section wishes to assert the person's interest in the property but was not eligible to file an affidavit under section 11 of this 2001 Act, the person must file an affidavit with the trial court, and must serve the forfeiture counsel with a copy of the affidavit, no later than 21 days after the date the notice required by

subsection (7) of this section was mailed. The person must allege facts in an affidavit filed under this subsection that if true would prove that the person took the property or the interest that the person holds in the property:

(a)(A) Before it was seized for criminal forfeiture; and

(B) In good faith and without intent to defeat the interest of any seizing agency; or

(b) As a bona fide purchaser for value without acquiescing in the prohibited conduct.

(9)(a) If an affidavit is timely filed under subsection (8) of this section and the forfeiture counsel:

(A) Does not contest the affidavit, the forfeiture counsel shall submit a form of judgment to the court for entry under section 14 of this 2001 Act.

(B) Does contest the affidavit, the forfeiture counsel shall request a hearing with the trial court no later than 21 days after receiving the affidavit.

(b) If no affidavit is filed under subsection (8) of this section but the seizing agency filed an affidavit under section 11 (4) of this 2001 Act, the forfeiture counsel shall request a hearing with the trial court no later than 21 days after the last date for receiving affidavits under subsection (8) of this section.

(10)(a) A hearing pursuant to subsection (9) of this section is an ancillary proceeding and the Oregon Rules of Civil Procedure apply. At the hearing:

(A) Forfeiture counsel has the burden of proving by a preponderance of the evidence that the person claiming an interest in the property:

(i) Took the property with the intent to defeat the interest of a seizing agency; or

(ii) Is not a bona fide purchaser for value or acquiesced in the prohibited conduct.

(B) Forfeiture counsel may present evidence and witnesses and cross-examine witnesses who appear at the hearing.

(C) The person claiming an interest in the property may testify, present evidence and witnesses and cross-examine witnesses who appear at the hearing.

(b) In addition to testimony and evidence presented at the hearing, the court shall consider relevant portions of the record of the criminal case that resulted in the judgment of criminal forfeiture.

(c) The court shall amend the judgment of criminal forfeiture in accordance with its determination if, after the hearing, the court determines that the claimant:

(A) Did take the property before it was seized for criminal forfeiture and in good faith and without intent to defeat the interest of the seizing agency; or

(B) Is a bona fide purchaser for value of the right, title or interest in the property and did not acquiesce in the prohibited conduct.

(d) Notwithstanding ORS 19.255 (1), a person may file a notice of appeal within 30 days after entry in the register of an order disposing of the matters at issue in the ancillary proceeding. An appeal under this paragraph is governed by the provisions of ORS chapter 19 relating to appeals in civil actions.

(11) When a court enters a judgment of criminal forfeiture under this section, the jurisdiction of the court continues for purposes of subsection (10) of this section and the property continues to be subject to the court's jurisdiction. [2001 c.666 §12]

Sec. 13. (1) The court shall enter judgment to the extent that the property is proceeds of the crime of conviction or of past prohibited conduct that is similar to the crime of conviction.

(2) With respect to property that is an instrumentality of the crime of conviction or of past prohibited conduct that is similar to the crime of conviction, the court shall consider:

(a) Whether the property constitutes the defendant's lawful livelihood or means of earning a living.

(b) Whether the property is the defendant's residence.

(c) The degree of relationship between the property and the prohibited conduct, including the extent to which the property facilitated the prohibited conduct or could facilitate future prohibited conduct.

(d) The monetary value of the property in relation to the risk of injury to the public from the prohibited conduct.

(e) The monetary value of the property in relation to the actual injury to the public from the prohibited conduct.

(f) The monetary value of the property in relation to objective measures of the potential or actual criminal culpability of the person or persons engaging in the prohibited conduct, including:

(A) The inherent gravity of the prohibited conduct;

(B) The potential sentence for similar prohibited conduct under Oregon law;

(C) The defendant's prior criminal history; and

(D) The sentence actually imposed on the defendant.

(g) Any additional relevant evidence. [2001 c.666 §13]

Sec. 14. (1) If no financial institution has filed the affidavit described in section 11 (1) of this 2001 Act, and if the court has failed to uphold the claim or affidavit of any other person claiming an interest in the property, the effect of the judgment is that:

(a) Title to the property passes to the seizing agency free of any interest or encumbrance thereon in favor of any person who has been given notice;

(b) The seizing agency may transfer good and sufficient title to any subsequent purchaser or transferee, and all courts, the state and the departments and agencies of this state, and any political subdivision shall recognize the title. In the case of real property, the seizing agency shall warrant the title against constitutional defect. A warranty under this paragraph is limited to the purchase price of the real property; and

(c) Any department, agency or officer of this state or any political subdivision whose official functions include the issuance of certificates or other evidence of title is immune from civil or criminal liability when such issuance is pursuant to a judgment of criminal forfeiture.

(2) If an affidavit is filed by a financial institution under section 11 (1) of this 2001 Act, or if a person files an affidavit under section 11 (2) of this 2001 Act:

(a) The court shall foreclose all security interests, liens and vendor's interests of financial institutions and claimants as to which the court determines that there is a legal or equitable basis for foreclosure; and

(b) All other interests applicable to the property that are not foreclosed or otherwise eliminated through a judgment and decree of foreclosure, if and to the extent that they are valid and subsisting, remain in effect and the property remains subject to them upon completion of the criminal forfeiture proceeding.

(3) Notwithstanding any other provision of law, if a financial institution or other person has filed an affidavit described in section 11 of this 2001 Act, or if the court has upheld the claim of any claimant, then as to each item of property seized:

(a) If the court has determined that the property should not be forfeited and has not foreclosed the security interests, liens or other interests covering the property, the court shall render judgment in favor of the owner of the property, the property must be returned to the owner and all security interests, liens and other interests applicable to the property remain in effect as though the property had never been seized. Upon the return of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure.

(b) If the court has determined that the property should not be forfeited and has foreclosed one or more interests covering the property, including security interests or liens covering the property or contracts for the transfer or conveyance of the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court within such time as may be prescribed by the court following entry of the judgment. If any interests covering the property have not been foreclosed, including any liens or security interests of a claimant whose claim has been upheld, or of a financial institution that has filed the affidavit described in section 11 of this 2001 Act, the property must be sold subject to those interests. The judgment shall order the proceeds of the sale applied in the following order:

(A) To the payment of the costs of the sale;

(B) To the satisfaction of the foreclosed liens, security interests and contracts in order of their priority; and

(C) The excess, if any, to the owner of the property.

(c) If the court has determined that the property should be forfeited and has foreclosed one or more security interests, liens, contracts or other interests covering the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court. If any interest in the property was claimed by a financial institution or other claimant and the interest was upheld but not foreclosed, the property must be sold subject to the interest. The sale of the property must be held within such time as may be prescribed by the court following entry of the judgment. The judgment shall also order the proceeds of such sale applied in the following order:

(A) To the payment of the costs of the sale;

(B) To the satisfaction of the foreclosed liens, security interests and contracts in the order of their priority; and

(C) The excess, if any, to the seizing agency to be disposed of as provided in section 16 or 17 of this 2001 Act.

(d) If the court has determined that the property should be forfeited and has not foreclosed the interests of any party in the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The court shall enter a judgment awarding the property to the seizing agency, subject to the interests of any claimants whose claims or affidavits were upheld by the court, and subject to the interests of any financial institutions that filed affidavits under section 11 (1) of this 2001 Act that remain in full force and effect.

(4) The court may include in the judgment of criminal forfeiture an order that directs the seizing agency to distribute to the victim of the crime of conviction a portion of any proceeds from property received by the seizing agency if:

(a) The crime of conviction was a person felony or person Class A misdemeanor as those terms are defined by rule of the Oregon Criminal Justice Commission; and

(b) The court included an order of restitution in the criminal judgment.

(5) The seizing agency is not liable to any person as a consequence of obedience to a judgment directing conveyance to a financial institution.

(6) The forfeiture counsel shall send a copy of the judgment to the Asset Forfeiture Oversight Advisory Committee.

(7)(a) On entry of judgment for a claimant in any proceeding to forfeit property under sections 1 to 18 of this 2001 Act, unless the court has foreclosed one or more security interests, liens or other interests covering the property, the property or interest in property must be returned or conveyed immediately to the claimant designated by the court.

(b) If it appears that there was reasonable suspicion that the property was subject to criminal forfeiture, the court shall cause a finding to be entered and no claimant or financial institution is entitled to damages nor is the person who made the seizure, the seizing agency or forfeiture counsel liable to suit or judgment on account of the seizure or action. An order directing seizure

issued under section 5 of this 2001 Act constitutes a finding of reasonable suspicion that the property was subject to criminal forfeiture.

(8) Nothing in this section prevents a claimant or financial institution from obtaining any deficiency to which the claimant or financial institution would otherwise be entitled.

(9) Nothing in this section or in section 6 of this 2001 Act prevents a seizing agency from entering into an agreement with a claimant or other person for the reimbursement of the seizing agency for the costs and expenses relating to towing and storage of property or the cost of discharging any possessory chattel lien on the property arising under ORS 87.152 to 87.162 that attached to the property in the period between the seizure of the property and the release or criminal forfeiture of the property. [2001 c.666 §14]

Sec. 15. Distribution of property or proceeds in accordance with sections 1 to 18 of this 2001 Act must be made equitably and may be made pursuant to intergovernmental agreement under ORS chapter 190. Intergovernmental agreements providing for such distributions and in effect on the effective date of this 2001 Act remain valid unless changed by the parties. The equitable distribution of proceeds targeted for law enforcement must involve sharing the proceeds between the seizing agency and forfeiture counsel. [2001 c.666 §15]

Sec. 16. (1) After the seizing agency distributes property under section 14, chapter 666, Oregon Laws 2001, and when the seizing agency is not the state, the seizing agency shall dispose of and distribute property as follows:

(a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under section 6, chapter 666, Oregon Laws 2001.

(b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under section 14 (4), chapter 666, Oregon Laws 2001.

(c) After costs have been paid and distributions under paragraph (b) of this subsection have been made, the seizing agency shall distribute the rest of the property to the general fund of the political subdivision that operates the seizing agency.

(2) Of the property distributed under subsection (1)(c) of this section, the political subdivision shall distribute:

(a) Three percent to the Asset Forfeiture Oversight Account established in ORS 475A.160;

(b) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5); and

(c) Ten percent to the state General Fund.

(3) Of the property distributed under subsection (1)(c) of this section that remains in the general fund of the political subdivision after the distributions required by subsection (2) of this section have been made:

(a) Fifty percent must be for official law enforcement use; and

(b) Fifty percent must be used for substance abuse treatment pursuant to a plan developed under section 1 of this 2001 Act [section 1, chapter 834, Oregon Laws 2001].

(4) Except as otherwise provided by intergovernmental agreement, the seizing agency may:

(a) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney.

(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(c) Retain the property.

(d) With written authorization from the district attorney for the seizing agency's jurisdiction, destroy any firearms or controlled substances.

(5) A political subdivision may sell as much property as may be needed to make the distributions required by subsections (1) and (2) of this section. A political subdivision shall make distributions to the Asset Forfeiture Oversight Account, the Illegal Drug Cleanup Fund and the state General Fund that are required by subsection (2) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection.

(6) A seizing agency may donate growing equipment and laboratory equipment that was used, or intended for use, in manufacturing of controlled substances to a public school, community college or state institution of higher education.

(7) This section applies only to criminal forfeiture proceeds arising out of prohibited conduct. [2001 c.666 §16; 2001 c.834 §7]

Sec. 17. (1) After the seizing agency distributes property under section 14, chapter 666, Oregon Laws 2001, and when the seizing agency is the state or when the state is the recipient of property forfeited under sections 1 to 18, chapter 666, Oregon Laws 2001, the seizing agency shall dispose of and distribute property as follows:

(a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under section 6, chapter 666, Oregon Laws 2001.

(b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under section 14 (4), chapter 666, Oregon Laws 2001.

(c) Of the property remaining after costs have been paid under paragraph (a) of this subsection and distributions have been made under paragraph (b) of this subsection, the seizing agency shall distribute:

(A) Three percent to the Asset Forfeiture Oversight Account established in ORS 475A.160;

(B) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5);

(C) Ten percent to the state General Fund;

(D) Subject to subsection (5) of this section, 40 percent to the Department of State Police or the Department of Justice for official law enforcement use; and

(E) Forty percent to the Drug Prevention and Education Fund established in section 4 of this 2001 Act [section 4, chapter 834, Oregon Laws 2001].

(2)(a) Any amount paid to or retained by the Department of Justice under subsection (1) of this section must be deposited in the Criminal Justice Revolving Account in the State Treasury.

(b) Any amount paid to or retained by the Department of State Police under subsection (1) of this section must be deposited in the State Police Account.

(3) The state may:

(a) With written authorization from the district attorney for the jurisdiction in which the property was seized, destroy any firearms or controlled substances.

(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(c) Retain any vehicles, firearms or other equipment usable for law enforcement purposes, for official law enforcement use directly by the state.

(d) Lend or transfer any vehicles, firearms or other equipment usable for law enforcement purposes to any federal, state or local law enforcement agency or district attorney for official law enforcement use directly by the transferee entity.

(4) When the state has entered into an intergovernmental agreement with one or more political subdivisions under section 15, chapter 666, Oregon Laws 2001, or when a law enforcement agency of this state has entered into an agreement with another law enforcement agency of this state, an equitable portion of the forfeited property distributed under subsection (1)(c)(D) of this section must be distributed to each agency participating in the seizure or criminal forfeiture as provided by the agreement.

(5) The property distributed under subsection (1)(c)(D) of this section, including any proceeds received by the state under an intergovernmental agreement or under an agreement between state law enforcement agencies, must be divided as follows:

(a) When no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, or when the Department of Justice has entered into an agreement under subsection (4) of this section, the property must be deposited in the Criminal Justice Revolving Account.

(b) When no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, or when the Department of State Police has entered into an agreement under subsection (4) of this section, the property must be deposited in the State Police Account.

(6) The seizing agency may sell as much property as may be needed to make the distributions required by subsection (1) of this section. The seizing agency shall make distributions to the Asset Forfeiture Oversight Account and the Illegal Drug Cleanup Fund that are required by subsection (1) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection. [2001 c.666 §17; 2001 c.834 §8]

Sec. 18. (1) A seizing agency and any agency that receives forfeited property or proceeds from the sale of forfeited property under sections 1 to 18 of this 2001 Act shall maintain written documentation of each sale, decision to retain, transfer or other disposition of forfeited property.

(2) Forfeiture counsel shall report each criminal forfeiture to the Asset Forfeiture Oversight Advisory Committee as soon as reasonably possible after the conclusion of criminal forfeiture proceedings, whether or not the forfeiture results in an entry of judgment under section 14 of this 2001 Act. The committee shall develop and make available forms for the purpose of reporting criminal forfeitures.

(3) Law enforcement agencies shall supply to forfeiture counsel all information requested by forfeiture counsel necessary for the preparation of the report required by subsection (2) of this section.

(4) Political subdivisions of this state that receive forfeiture proceeds under section 16 of this 2001 Act shall submit a report to the committee for any year in which those proceeds are received. The committee shall develop and make available forms for the purpose of those reports. The forms must require the political subdivision to report how proceeds received by the political subdivision have been or will be used and any other information requested by the committee. A political subdivision shall submit a report required by this subsection by December 15 for the last ending fiscal year of the political subdivision. [2001 c.666 §18]

Sec. 19. The crimes to which section 1 (11)(b), chapter 666, Oregon Laws 2001, applies are:

(1) Bribe giving, as defined in ORS 162.015.

(2) Bribe receiving, as defined in ORS 162.025.

(3) Public investment fraud, as defined in ORS 162.117.

(4) Bribing a witness, as defined in ORS 162.265.

(5) Bribe receiving by a witness, as defined in ORS 162.275.

(6) Simulating legal process, as defined in ORS 162.355.

(7) Official misconduct in the first degree, as defined in ORS 162.415.

(8) Custodial interference in the second degree, as defined in ORS 163.245.

(9) Custodial interference in the first degree, as defined in ORS 163.257.
(10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
(11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
(12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
(13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
(14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
(15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as defined in ORS 163.688.
(16) Possession of materials depicting sexually explicit conduct of a child in the second degree, as defined in ORS 163.689.
(17) Theft in the second degree, as defined in ORS 164.045.
(18) Theft in the first degree, as defined in ORS 164.055.
(19) Aggravated theft in the first degree, as defined in ORS 164.057.
(20) Theft by extortion, as defined in ORS 164.075.
(21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
(22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
(23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
(24) Unauthorized use of a vehicle, as defined in ORS 164.135.
(25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
(26) Laundering a monetary instrument, as defined in ORS 164.170.
(27) Engaging in a financial transaction in property derived from unlawful activity, as defined in ORS 164.172.
(28) Burglary in the second degree, as defined in ORS 164.215.
(29) Burglary in the first degree, as defined in ORS 164.225.
(30) Possession of burglar's tools, as defined in ORS 164.235.
(31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
(32) Arson in the second degree, as defined in ORS 164.315.
(33) Arson in the first degree, as defined in ORS 164.325.
(34) Computer crime, as defined in ORS 164.377.
(35) Robbery in the third degree, as defined in ORS 164.395.
(36) Robbery in the second degree, as defined in ORS 164.405.
(37) Robbery in the first degree, as defined in ORS 164.415.
(38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
(39) Unlawful recording of a live performance, as defined in ORS 164.869.
(40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
(41) A violation of ORS 164.877.
(42) Endangering aircraft, as defined in ORS 164.885.
(43) Interference with agricultural operations, as defined in ORS 164.887.
(44) Forgery in the second degree, as defined in ORS 165.007.
(45) Forgery in the first degree, as defined in ORS 165.013.
(46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
(47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
(48) Criminal possession of a forgery device, as defined in ORS 165.032.
(49) Criminal simulation, as defined in ORS 165.037.
(50) Fraudulently obtaining a signature, as defined in ORS 165.042.
(51) Fraudulent use of a credit card, as defined in ORS 165.055.
(52) Negotiating a bad check, as defined in ORS 165.065.
(53) Possessing a fraudulent communications device, as defined in ORS 165.070.
(54) Unlawful factoring of a credit card transaction, as defined in ORS 165.074.
(55) Falsifying business records, as defined in ORS 165.080.
(56) Sports bribery, as defined in ORS 165.085.
(57) Sports bribe receiving, as defined in ORS 165.090.
(58) Misapplication of entrusted property, as defined in ORS 165.095.
(59) Issuing a false financial statement, as defined in ORS 165.100.
(60) Obtaining execution of documents by deception, as defined in ORS 165.102.
(61) A violation of ORS 165.543.
(62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
(63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
(64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
(65) Identity theft, as defined in ORS 165.800.
(66) A violation of ORS 166.190.
(67) Unlawful use of a weapon, as defined in ORS 166.220.
(68) A violation of ORS 166.240.
(69) Unlawful possession of a firearm, as defined in ORS 166.250.

(70) A violation of ORS 166.270.
(71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer, as defined in ORS 166.272.
(72) A violation of ORS 166.275.
(73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
(74) A violation of ORS 166.370.
(75) Unlawful possession of a destructive device, as defined in ORS 166.382.
(76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
(77) Possession of a hoax destructive device, as defined in ORS 166.385.
(78) A violation of ORS 166.410.
(79) Providing false information in connection with a transfer of a handgun, as defined in ORS 166.416.
(80) Improperly transferring a handgun, as defined in ORS 166.418.
(81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
(82) A violation of ORS 166.429.
(83) A violation of ORS 166.470.
(84) A violation of ORS 166.480.
(85) A violation of ORS 166.635.
(86) A violation of ORS 166.638.
(87) Unlawful paramilitary activity, as defined in ORS 166.660.
(88) A violation of ORS 166.720.
(89) Prostitution, as defined in ORS 167.007.
(90) Promoting prostitution, as defined in ORS 167.012.
(91) Compelling prostitution, as defined in ORS 167.017.
(92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
(93) Unlawful gambling in the second degree, as defined in ORS 167.122.
(94) Unlawful gambling in the first degree, as defined in ORS 167.127.
(95) Possession of gambling records in the second degree, as defined in ORS 167.132.
(96) Possession of gambling records in the first degree, as defined in ORS 167.137.
(97) Possession of a gambling device, as defined in ORS 167.147.
(98) Possession of a gray machine, as defined in ORS 167.164.
(99) Cheating, as defined in ORS 167.167.
(100) Tampering with drug records, as defined in ORS 167.212.
(101) A violation of ORS 167.262.
(102) Research and animal interference, as defined in ORS 167.312.
(103) Animal abuse in the first degree, as defined in ORS 167.320.
(104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
(105) Animal neglect in the first degree, as defined in ORS 167.330.
(106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.
(107) Involvement in animal fighting, as defined in ORS 167.355.
(108) Dogfighting, as defined in ORS 167.365.
(109) Participation in dogfighting, as defined in ORS 167.370.
(110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
(111) Interference with livestock production, as defined in ORS 167.388.
(112) A violation of ORS 167.390.
(113) A violation of ORS 471.410.
(114) Failure to report missing precursor substances, as defined in ORS 475.955.
(115) Illegally selling drug equipment, as defined in ORS 475.960.
(116) Providing false information on a precursor substances report, as defined in ORS 475.965.
(117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.991.
(118) A violation of ORS 475.992, if it is a felony or a Class A misdemeanor.
(119) A violation of ORS 475.993, if it is a felony or a Class A misdemeanor.
(120) A violation of ORS 475.994.
(121) A violation of ORS 475.995, if it is a felony or a Class A misdemeanor.
(122) A violation of ORS 475.999 (1)(a).
(123) Misuse of an identification card, as defined in ORS 807.430.
(124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as defined in ORS 807.500.
(125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
(126) Using an invalid license, as defined in ORS 807.580.
(127) Permitting misuse of a license, as defined in ORS 807.590.
(128) Using another’s license, as defined in ORS 807.600.
(129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a felony.

(130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a felony.

(131) Unlawful distribution of cigarettes, as defined in section 3 of this 2001 Act [323.482].

(132) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (131) of this section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor. [2001 c.666 §19; 2001 c.696 §5]

Sec. 55. Sections 1 to 19 of this 2001 Act and the amendments to and repeal of statutes by sections 20, 22, 24 to 35 and 56 of this 2001 Act apply to property seized for criminal forfeiture on or after the operative date of this section. [2001 c.666 §55]

Sec. 57. Sections 1 to 19 of this 2001 Act are repealed on July 31, 2005. [2001 c.666 §57]

PRELIMINARY PROVISIONS

131.005 General definitions. As used in sections 1 to 311, chapter 836, Oregon Laws 1973, except as otherwise specifically provided or unless the context requires otherwise:

(1) "Accusatory instrument" means a grand jury indictment, an information or a complaint.

(2) "Bench warrant" means a process of a court in which a criminal action is pending, directing a peace officer to take into custody a defendant in the action who has previously appeared before the court upon the accusatory instrument by which the action was commenced, and to bring the defendant before the court. The function of a bench warrant is to achieve the court appearance of a defendant in a criminal action for some purpose other than the initial arraignment of the defendant in the action.

(3) "Complaint" means a written accusation, verified by the oath of a person and bearing an indorsement of acceptance by the district attorney having jurisdiction thereof, filed with a magistrate, and charging another person with the commission of an offense, other than an offense punishable as a felony. A complaint serves both to commence an action and as a basis for prosecution thereof.

(4) "Complainant's information" means a written accusation, verified by the oath of a person and bearing an indorsement of acceptance by the district attorney having jurisdiction thereof, filed with a magistrate, and charging another person with the commission of an offense punishable as a felony. A complainant's information serves to commence an action, but not as a basis for prosecution thereof.

(5) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. "Correctional facility" does not include a youth correction facility as defined in ORS 162.135 and applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental disease or defect under ORS 161.290 to 161.370.

(6) "Criminal action" means an action at law by means of which a person is accused of the commission of a violation, misdemeanor or felony.

(7) "Criminal proceeding" means any proceeding which constitutes a part of a criminal action or occurs in court in connection with a prospective, pending or completed criminal action.

(8) "District attorney," in addition to its ordinary meaning, includes a city attorney as prosecuting officer in the case of municipal ordinance offenses, a county counsel as prosecuting officer under a county charter in the case of county ordinance offenses, and the Attorney General in those criminal actions or proceedings within the jurisdiction of the Attorney General.

(9) "District attorney's information" means a written accusation by a district attorney and:

(a) If filed with a magistrate to charge a person with the commission of an offense, other than an offense punishable as a felony, serves both to commence an action and as a basis for prosecution thereof; or

(b) If filed with a magistrate to charge a person with the commission of an offense punishable as a felony, serves to commence an action, but not as a basis for prosecution thereof; or

(c) If, as is otherwise authorized by law, filed in circuit court to charge a person with the commission of an offense, serves as a basis for prosecution thereof.

(10) "Information" means a district attorney's information or a complainant's information.

(11) "Probable cause" means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it.

(12) "Trial court" means a court which by law has jurisdiction over an offense charged in an accusatory instrument and has authority to accept a plea thereto, or try, hear or otherwise dispose of a criminal action based on the accusatory instrument.

(13) "Ultimate trial jurisdiction" means the jurisdiction of a court over a criminal action or proceeding at the highest trial level.

(14) "Warrant of arrest" means a process of a court, directing a peace officer to arrest a defendant and to bring the defendant before the court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against the defendant has been commenced. [1973 c.836 §1; 1983 c.760 §1; 1995 c.738 §3; 1997 c.249 §42; 1997 c.801 §101; 1999 c.1051 §122]

Note: Legislative Counsel has substituted "chapter 836, Oregon Laws 1973," for the words "this Act" in sections 1 and 2, chapter 836, Oregon Laws 1973, compiled as 131.005 and 131.015. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1973 Comparative Section Table located in Volume 18 of ORS.

131.007 "Victim" defined. As used in ORS 40.385, 135.230, 135.406, 135.970, 147.417, 147.419 and 147.421 and in ORS chapters 136, 137 and 144, except as otherwise specifically provided or unless the context requires otherwise, "victim" means the person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no event shall the criminal defendant be considered a victim. [1987 c.2 §17; 1993 c.294 §3; 1997 c.313 §30]

131.010 [Repealed by 1973 c.836 §358]

131.015 Application to prior and subsequent actions.(1) The provisions of chapter 836, Oregon Laws 1973, apply to:

(a) All criminal actions and proceedings commenced upon or after January 1, 1974, and all appeals and other post-judgment proceedings relating or attaching thereto; and

(b) All matters of criminal procedure prescribed in chapter 836, Oregon Laws 1973, which do not constitute a part of any particular action or case, occurring upon or after January 1, 1974.

(2) The provisions of chapter 836, Oregon Laws 1973, do not impair or render ineffectual any proceedings or procedural matters which occurred before January 1, 1974. [1973 c.836 §2]

Note: See note under 131.005.

131.020 [Repealed by 1973 c.836 §358]

131.025 Parties in criminal action. Except for offenses based on municipal or county ordinances, in a criminal action the State of Oregon is the plaintiff and the person prosecuted is the defendant. [1973 c.836 §3]

131.030 [Repealed by 1973 c.836 §358]

131.035 When departures, errors or mistakes in pleadings or proceedings are material. No departure from the form or mode prescribed by law, error or mistake in any criminal pleading, action or proceeding renders it invalid, unless it has prejudiced the defendant in respect to a substantial right. [1973 c.836 §4]

131.040 When law enforcement officer may communicate with person represented by counsel. A law enforcement officer may communicate with a person who is represented by counsel without obtaining the prior consent of counsel, and an attorney who prosecutes violations of the criminal laws of this state or the United States is not required to forbid or otherwise prevent the communication, if:

(1) The communication is related to a criminal investigation;

(2) No accusatory instrument has been filed charging the person with the commission of an offense that is the subject of the investigation or communication, and no juvenile petition has been filed alleging acts that would constitute the commission of an offense that is the subject of the investigation or communication; and

(3) The communication is not in violation of the Constitution of the United States or of the State of Oregon. [1995 c.657 §19]

TIME LIMITATIONS

131.105 Timeliness of criminal actions. A criminal action must be commenced within the period of limitation prescribed in ORS 131.125 to 131.155. [1973 c.836 §5]

131.110 [Amended by 1971 c.743 §315a; repealed by 1973 c.836 §358]

131.120 [Repealed by 1973 c.836 §358]

131.125 Time limitations. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of manslaughter may be commenced at any time after the commission of the attempt, conspiracy or solicitation to commit aggravated murder or murder, or the death of the person killed.

(2) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 24 years of age or within six years after the offense is reported to a law enforcement agency or other governmental agency, whichever occurs first:

(a) Criminal mistreatment in the first degree under ORS 163.205.

(b) Rape in the third degree under ORS 163.355.

(c) Rape in the second degree under ORS 163.365.

(d) Rape in the first degree under ORS 163.375.

(e) Sodomy in the third degree under ORS 163.385.
(f) Sodomy in the second degree under ORS 163.395.
(g) Sodomy in the first degree under ORS 163.405.
(h) Unlawful sexual penetration in the second degree under ORS 163.408.
(i) Unlawful sexual penetration in the first degree under ORS 163.411.
(j) Sexual abuse in the second degree under ORS 163.425.
(k) Sexual abuse in the first degree under ORS 163.427.
(L) Using a child in a display of sexual conduct under ORS 163.670.
(m) Encouraging child sexual abuse in the first degree under ORS 163.684.
(n) Incest under ORS 163.525.
(o) Promoting prostitution under ORS 167.012.
(p) Compelling prostitution under ORS 167.017.

(3) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 22 years of age or within four years after the offense is reported to a law enforcement agency or other governmental agency, whichever occurs first:
(a) Sexual abuse in the third degree under ORS 163.415.
(b) Furnishing obscene materials to minors under ORS 167.065.
(c) Sending obscene materials to minors under ORS 167.070.
(d) Exhibiting an obscene performance to a minor under ORS 167.075.
(e) Displaying obscene materials to minors under ORS 167.080.

(4) In the case of crimes described in subsection (2)(L) of this section, the “victim” is the child engaged in sexual conduct. In the case of the crime described in subsection (2)(n) of this section, the “victim” is the party to the incest other than the party being prosecuted. In the case of crimes described in subsection (2)(o) and (p) of this section, the “victim” is the child whose acts of prostitution are promoted or compelled.

(5) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

(6) Except as provided in subsection (7) of this section or as otherwise expressly provided by law, prosecutions for other offenses must be commenced within the following periods of limitations after their commission:
(a) For any other felony, three years.
(b) For any misdemeanor, two years.
(c) For a violation, six months.

(7) If the period prescribed in subsection (6) of this section has expired, a prosecution nevertheless may be commenced as follows:

(a) If the offense has as a material element either fraud or the breach of a fiduciary obligation, prosecution may be commenced within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall the period of limitation otherwise applicable be extended by more than three years;

(b) If the offense is based upon misconduct in office by a public officer or employee, prosecution may be commenced at any time while the defendant is in public office or employment or within two years thereafter, but in no case shall the period of limitation otherwise applicable be extended by more than three years; or

(c) If the offense is an invasion of personal privacy under ORS 163.700, prosecution may be commenced within one year after discovery of the offense by the person aggrieved by the offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a law enforcement agency, but in no case shall the period of limitation otherwise applicable be extended by more than three years.

(8) Notwithstanding subsection (2) of this section, a prosecution for rape in the first or second degree or sodomy in the first or second degree may be commenced within 12 years after the commission of the crime if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons. [1973 c.836 §6; 1989 c.831 §1; 1991 c.386 §5; 1991 c.388 §1; 1991 c.830 §5; 1995 c.768 §8; 1997 c.427 §1; 1997 c.697 §3; 1997 c.850 §5; 2001 c.375 §1]

131.130 [Repealed by 1973 c.836 §358]

131.135 When prosecution commenced. A prosecution is commenced when a warrant or other process is issued, provided that the warrant or other process is executed without unreasonable delay. [1973 c.836 §7]

131.145 When time starts to run; tolling of statute. (1) For the purposes of ORS 131.125, time starts to run on the day after the offense is committed.

(2) Except as provided in ORS 131.155, the period of limitation does not run during:
(a) Any time when the accused is not an inhabitant of or usually resident within this state; or
(b) Any time when the accused hides within the state so as to prevent process being served upon the accused.

(3) If, when the offense is committed, the accused is out of the state, the action may be commenced within the time

provided in ORS 131.125 after the coming of the accused into the state. [1973 c.836 §8; 1987 c.158 §19]

131.155 Tolling of statute; three-year maximum. Notwithstanding ORS 131.145, in no case shall the period of limitation otherwise applicable be extended by more than three years. [1973 c.836 §9]

JURISDICTION

131.205 Definition for ORS 131.205 to 131.235. As used in ORS 131.205 to 131.235, "this state" means the land and water and the air space above the land and water with respect to which the State of Oregon has legislative jurisdiction. [1973 c.836 §13]

131.210 [Repealed by 1973 c.836 §358]

131.215 Jurisdiction. Except as otherwise provided in ORS 131.205 to 131.235, a person is subject to prosecution under the laws of this state for an offense that the person commits by the conduct of the person or the conduct of another for which the person is criminally liable if:

(1) Either the conduct that is an element of the offense or the result that is an element occurs within this state; or

(2) Conduct occurring outside this state is sufficient under the law of this state to constitute an attempt to commit an offense within this state; or

(3) Conduct occurring outside this state is sufficient under the law of this state to constitute a conspiracy to commit an offense within this state and an overt act in furtherance of the conspiracy occurs within this state; or

(4) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit an offense in another jurisdiction which also is an offense under the law of this state; or

(5) The offense consists of the omission to perform a legal duty imposed by the law of this state with respect to domicile, residence or a relationship to a person, thing or transaction in this state; or

(6) The offense violates a statute of this state that expressly prohibits conduct outside this state affecting a legislatively protected interest of or within this state and the actor has reason to know that the conduct of the actor is likely to affect that interest. [1973 c.836 §10]

131.220 [Repealed by 1973 c.836 §358]

131.225 Exceptions. (1) Unless in the statute defining the offense a legislative intent clearly appears to declare the conduct criminal, regardless of the place of the result, ORS 131.215 (1) does not apply if:

(a) Either causing a specified result or an intent to cause or danger of causing that result is an element of an offense; and

(b) The result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense.

(2) ORS 131.215 (1) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside this state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within this state. [1973 c.836 §11]

131.230 [Repealed by 1973 c.836 §358]

131.235 Criminal homicide. (1) If the offense committed is criminal homicide, either the death of the victim or the conduct causing death constitutes a "result" within the meaning of ORS 131.215 (1).

(2) If the body, or a part thereof, of a criminal homicide victim is found within this state, it shall be prima facie evidence that the result occurred within this state. [1973 c.836 §12]

131.240 [Repealed by 1973 c.836 §358]

131.250 [1971 c.743 §291; repealed by 1973 c.836 §358]

VENUE

131.305 Place of trial. (1) Except as otherwise provided in ORS 131.305 to 131.415, criminal actions shall be commenced and tried in the county in which the conduct that constitutes the offense or a result that is an element of the offense occurred.

(2) All objections of improper place of trial are waived by a defendant unless the defendant objects in the manner set forth in ORS 131.335 to 131.363. [1973 c.836 §14]

131.310 [Repealed by 1973 c.836 §358]

131.315 Special provisions. (1) If conduct constituting elements of an offense or results constituting elements of an offense

occur in two or more counties, trial of the offense may be held in any of the counties concerned.

(2) If a cause of death is inflicted on a person in one county and the person dies therefrom in another county, trial of the offense may be held in either county.

(3) If the commission of an offense commenced outside this state is consummated within this state, trial of the offense shall be held in the county in which the offense is consummated or the interest protected by the criminal statute in question is impaired.

(4) If an offense is committed on any body of water located in, or adjacent to, two or more counties or forming the boundary between two or more counties, trial of the offense may be held in any nearby county bordering on the body of water.

(5) If an offense is committed in or upon any railroad car, vehicle, aircraft, boat or other conveyance in transit and it cannot readily be determined in which county the offense was committed, trial of the offense may be held in any county through or over which the conveyance passed.

(6) If an offense is committed on the boundary of two or more counties or within one mile thereof, trial of the offense may be held in any of the counties concerned.

(7) A person who commits theft, burglary or robbery may be tried in any county in which the person exerts control over the property that is the subject of the crime.

(8) If the offense is an attempt or solicitation to commit a crime, trial of the offense may be held in any county in which any act that is an element of the offense is committed.

(9) If the offense is criminal conspiracy, trial of the offense may be held in any county in which any act or agreement that is an element of the offense occurs.

(10) A person who in one county commits an inchoate offense that results in the commission of an offense by another person in another county, or who commits the crime of hindering prosecution of the principal offense, may be tried in either county.

(11) A criminal nonsupport action may be tried in any county in which the dependent child is found, irrespective of the domicile of the parent, guardian or other person lawfully charged with support of the child.

(12) If the offense is theft and the offense consists of an aggregate transaction involving more than one county, trial of the offense may be held in any county in which one of the acts of theft was committed.

(13) When a prosecution is for violation of the Oregon Securities Law, the trial of the offense may be held in the county in which:

(a) The offer to purchase or sell securities took place or where the sale or purchase of securities took place; or

(b) Any act that is an element of the offense occurred.

(14) When a prosecution under ORS 165.692 and 165.990 or 411.675 and 411.990 (2) and (3) involves Medicaid funds, the trial of the offense may be held in the county in which the claim was submitted for payment or in the county in which the claim was paid. [1973 c.836 §15; 1987 c.603 §26; 1989 c.384 §1; 1993 c.680 §28; 1995 c.496 §7]

131.320 [Repealed by 1973 c.836 §358]

131.325 Place of trial; doubt as to place of crime; conduct outside of state. If an offense is committed within the state and it cannot readily be determined within which county the commission took place, or a statute that governs conduct outside the state is violated, trial may be held in the county in which the defendant resides, or if the defendant has no fixed residence in this state, in the county in which the defendant is apprehended or to which the defendant is extradited. [1973 c.836 §16]

131.330 [Repealed by 1973 c.836 §358]

131.335 Change of venue. In accordance with ORS 131.345 to 131.415, the defendant in a criminal action may have the place of trial changed only once, except for causes arising after the first change was allowed. [1973 c.836 §17]

131.340 [Repealed by 1973 c.836 §358]

131.345 Motion for change of venue; when made. A motion for change of venue may be made in any criminal action in a circuit court when the case is at issue upon a question of fact. [1973 c.836 §18]

131.350 [Amended by 1971 c.743 §316; repealed by 1973 c.836 §358]

131.355 Change of venue for prejudice. The court, upon motion of the defendant, shall order the place of trial to be changed to another county if the court is satisfied that there exists in the county where the action is commenced so great a prejudice against the defendant that the defendant cannot obtain a fair and impartial trial. [1973 c.836 §19]

131.360 [Amended by 1973 c.743 §317; repealed by 1973 c.836 §358]

131.363 Change of venue in other cases. For the convenience of parties and witnesses, and in the interest of justice, the court, upon motion of the defendant, may order the place of trial to be changed to another county. [1973 c.836 §20]

131.365 [1959 c.664 §5; repealed by 1973 c.836 §358]

131.370 [Repealed by 1973 c.836 §358]

131.375 Transmission of transcript on change of venue. When the court has ordered a change of venue, the clerk shall forthwith make and retain authenticated copies of the original papers filed in the case and transmit to the clerk of the proper court a transcript of the proceedings and the original papers. [1973 c.836 §21]

131.380 [Repealed by 1973 c.836 §358]

131.385 Filing of transmitted transcript and papers. The change of the place of trial is complete when the transcript and papers are filed with the clerk of the court to which the trial is transferred, and thereafter the action shall proceed in the same manner as if it had been commenced in that court. [1973 c.836 §22]

131.390 [Amended by 1971 c.746 §318; repealed by 1973 c.836 §358]

131.395 Expenses of change; taxation as costs. (1) The expenses of the change of place of trial under ORS 131.363 shall be taxed, as allowed by law, as expenses of the action, and the costs and expenses of the action shall be taxed in the court and paid by the county wherein the trial is held. If the costs and expenses are not recovered from the defendant, the county in which the action was commenced shall repay the county in which the trial is held.

(2) The expenses of a change of place of trial under ORS 131.355 shall not be taxed against the defendant. [1973 c.836 §23]

131.400 [Repealed by 1973 c.836 §358]

131.405 Attendance of defendant at new place of trial. (1) When the court has ordered a change of place of trial, if the defendant has been released on security release, conditional release or recognizance, the defendant must, without further notice, appear at the time and place appointed for trial and not depart therefrom without permission of the court.

(2) A security deposit is sufficient therefor in all respects as if the action had proceeded to final determination in the court where it was commenced. [1973 c.836 §24]

131.410 [Repealed by 1973 c.836 §358]

131.415 Conveyance of defendant in custody after change of venue. When the court has ordered a change of place of trial, if the defendant is in custody, the clerk of the court shall issue an order to the sheriff of the county, directing the sheriff to safely convey the defendant and deliver the defendant to the custody of the executive head of the correctional institution of the county where the defendant is to be tried. [1973 c.836 §25]

131.420 [Amended by 1961 c.442 §1; repealed by 1973 c.836 §358]

131.430 [Repealed by 1973 c.836 §358]

131.440 [Repealed by 1973 c.836 §358]

131.450 [Repealed by 1973 c.836 §358]

131.460 [Repealed by 1973 c.836 §358]

131.470 [Repealed by 1973 c.836 §358]

FORMER JEOPARDY

131.505 Definitions for ORS 131.505 to 131.525. As used in ORS 131.505 to 131.525, unless the context requires otherwise:

(1) “Conduct” and “offense” have the meaning provided for those terms in ORS 161.085 and 161.505.

(2) When the same conduct or criminal episode violates two or more statutory provisions, each such violation constitutes a separate and distinct offense.

(3) When the same conduct or criminal episode, though violating only one statutory provision, results in death, injury, loss or other consequences of two or more victims, and the result is an element of the offense defined, there are as many offenses as there are victims.

(4) “Criminal episode” means continuous and uninterrupted conduct that establishes at least one offense and is so joined in time, place and circumstances that such conduct is directed to the accomplishment of a single criminal objective.

(5) A person is “prosecuted for an offense” when the person is charged therewith by an accusatory instrument filed in any court of this state or in any court of any political subdivision of this state, and when the action either:

(a) Terminates in a conviction upon a plea of guilty, except as provided in ORS 131.525 (2);

(b) Proceeds to the trial stage and the jury is impaneled and sworn; or

(c) Proceeds to the trial stage when a judge is the trier of fact and the first witness is sworn.

(6) There is an “acquittal” if the prosecution results in a finding of not guilty by the trier of fact or in a determination that there is insufficient evidence to warrant a conviction. [1973 c.836 §26; 1983 c.509 §1; 2001 c.104 §42]

131.515 Previous prosecution; when a bar to second prosecution. Except as provided in ORS 131.525 and 131.535:

(1) No person shall be prosecuted twice for the same offense.

(2) No person shall be separately prosecuted for two or more offenses based upon the same criminal episode, if the several offenses are reasonably known to the appropriate prosecutor at the time of commencement of the first prosecution and establish proper venue in a single court.

(3) If a person is prosecuted for an offense consisting of different degrees, the conviction or acquittal resulting therefrom is a bar to a later prosecution for the same offense, for any inferior degree of the offense, for an attempt to commit the offense or for an offense necessarily included therein.

(4) A finding of guilty of a lesser included offense on any count is an acquittal of the greater inclusive offense only as to that count. [1973 c.836 §27; 1997 c.511 §3]

131.525 Previous prosecution; when not a bar to subsequent prosecution. (1) A previous prosecution is not a bar to a subsequent prosecution when the previous prosecution was properly terminated under any of the following circumstances:

(a) The defendant consents to the termination or waives, by motion, by an appeal upon judgment of conviction, or otherwise, the right to object to termination.

(b) The trial court finds that a termination, other than by judgment of acquittal, is necessary because:

(A) It is physically impossible to proceed with the trial in conformity with law; or

(B) There is a legal defect in the proceeding that would make any judgment entered upon a verdict reversible as a matter of law; or

(C) Prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the state; or

(D) The jury is unable to agree upon a verdict; or

(E) False statements of a juror on voir dire prevent a fair trial.

(c) When the former prosecution occurred in a court which lacked jurisdiction over the defendant or the offense.

(d) When the subsequent prosecution was for an offense which was not consummated when the former prosecution began.

(2) A plea of guilty or resulting judgment is not a bar under ORS 131.515 (2) to a subsequent prosecution under an accusatory instrument which is filed no later than 30 days after entry of the guilty plea. The defendant’s prior plea of guilty or resulting judgment, notwithstanding ORS 135.365, shall be vacated upon motion by the defendant if made within 30 days after defendant’s arraignment for the subsequent prosecution. The provisions of ORS 135.445 apply to such a vacated plea or resulting judgment and any statements made in relation to those proceedings. [1973 c.836 §28; 1983 c.509 §2]

131.535 Proceedings not constituting acquittal. The following proceedings will not constitute an acquittal of the same offense:

(1) If the defendant was formerly acquitted on the ground of a variance between the accusatory instrument and the proof; or

(2) If the accusatory instrument was:

(a) Dismissed upon a demurrer to its form or substance;

(b) Dismissed upon any pretrial motion; or

(c) Discharged for want of prosecution without a judgment of acquittal. [1973 c.836 §29; 2001 c.104 §43]

CRIME PREVENTION

(Stopping of Persons)

131.605 Definitions for ORS 131.605 to 131.625. As used in ORS 131.605 to 131.625, unless the context requires otherwise:

(1) “Crime” has the meaning provided for that term in ORS 161.515.

(2) “Dangerous weapon,” “deadly weapon” and “person” have the meaning provided for those terms in ORS 161.015.

(3) “Frisk” is an external patting of a person’s outer clothing.

(4) “Is about to commit” means unusual conduct that leads a peace officer reasonably to conclude in light of the officer’s training and experience that criminal activity may be afoot.

(5) “Reasonably suspects” means that a peace officer holds a belief that is reasonable under the totality of the circumstances

existing at the time and place the peace officer acts as authorized in ORS 131.605 to 131.625.

(6) A "stop" is a temporary restraint of a person's liberty by a peace officer lawfully present in any place. [1973 c.836 §30; 1997 c.866 §2]

131.615 Stopping of persons. (1) A peace officer who reasonably suspects that a person has committed or is about to commit a crime may stop the person and, after informing the person that the peace officer is a peace officer, make a reasonable inquiry.

(2) The detention and inquiry shall be conducted in the vicinity of the stop and for no longer than a reasonable time.

(3) The inquiry shall be considered reasonable if it is limited to:

(a) The immediate circumstances that aroused the officer's suspicion;

(b) Other circumstances arising during the course of the detention and inquiry that give rise to a reasonable suspicion of criminal activity; and

(c) Ensuring the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.

(4) The inquiry may include a request for consent to search in relation to the circumstances specified in subsection (3) of this section or to search for items of evidence otherwise subject to search or seizure under ORS 133.535.

(5) A peace officer making a stop may use the degree of force reasonably necessary to make the stop and ensure the safety of the peace officer, the person stopped or other persons who are present. [1973 c.836 §31; 1997 c.866 §1]

131.625 Frisk of stopped persons. (1) A peace officer may frisk a stopped person for dangerous or deadly weapons if the officer reasonably suspects that the person is armed and dangerous to the officer or other persons present.

(2) If, in the course of the frisk, the peace officer feels an object which the peace officer reasonably suspects is a dangerous or deadly weapon, the peace officer may take such action as is reasonably necessary to take possession of the weapon. [1973 c.836 §32; 1997 c.866 §3]

(Detention)

131.655 Detention and interrogation of persons suspected of theft committed in a store; probable cause. (1) Notwithstanding any other provision of law, a peace officer, merchant or merchant's employee who has probable cause for believing that a person has committed theft of property of a store or other mercantile establishment may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(2) If a peace officer, merchant or merchant's employee, with probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, detains and interrogates the person in regard thereto, and the person thereafter brings against the peace officer, merchant or merchant's employee any civil or criminal action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time. [Formerly 133.037]

(Prevention by Public Officers)

131.665 Prevention by public officers. Crimes may be prevented by the action of public officers in accordance with ORS 131.675, 131.685, 131.705 to 131.735, and as otherwise authorized by law. [1973 c.836 §34a (enacted in lieu of 145.010)]

131.675 Dispersal of unlawful or riotous assemblages. When any five or more persons, whether armed or not, are unlawfully or riotously assembled in any county, city, town or village, the sheriff of the county and the deputies of the sheriff, the mayor of the city, town or village, or chief executive officer or officers thereof, and the justice of the peace of the district where the assemblage takes place, or such of them as can forthwith be collected, shall go among the persons assembled, or as near to them as they can with safety, and command them in the name of the State of Oregon to disperse. If, so commanded, they do not immediately disperse, the officer must arrest them or cause them to be arrested; and they may be punished according to law. [Formerly 145.020; 1987 c.526 §1]

131.685 Authority of Governor to enter into agreements with other states for crime prevention purposes. The Governor of Oregon may enter into agreements or compacts with the Governor of any or all the States of Washington, Idaho, California and Nevada, each acting on behalf of the own state of the Governor, in order to effectuate cooperative effort and mutual assistance in the prevention of crime in those states and in the enforcement of their respective criminal laws and policies. [Formerly 145.060]

(Exclusion from Public Property)

131.705 Definitions for ORS 131.705 to 131.735. As used in ORS 131.705 to 131.735, unless the context requires otherwise:

(1) "Police" means the municipal police and the county sheriff of the political subdivision in which the public property is

located, and the Department of State Police.

(2) "Public official" means the officer or employee who is the administrative head of the board, commission, agency or division or department of this state or any political subdivision therein which has jurisdiction over any public property, or the designate of the officer or employee.

(3) "Public property" means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or buildings owned or leased by this state or any political subdivision therein. [Formerly 145.610]

131.715 Proclamation of emergency period by Governor. After consultation with the public official, or the designate of the public official, and the police, the Governor may proclaim an emergency period if the Governor finds that there exists on any public property a clear and present danger of injury to persons, damage to property or denial of or substantial interference with ingress or egress from public property. The proclamation shall describe the public property affected by the proclamation. The Governor shall cause the proclamation to be publicized. When the Governor finds that the danger has ended, the Governor shall proclaim the end of the emergency period. [Formerly 145.620]

131.725 Exclusion from public property. (1) During the emergency period proclaimed by the Governor under ORS 131.715, the public official shall order excluded from the public property described in the proclamation such persons who in the judgment of the public official are contributing to or aggravating the danger which the Governor has proclaimed to exist.

(2) After informing the person ordered removed or excluded from the public property of the proclamation and order, the police shall remove or exclude such person from such public property.

(3) Any person who, having been ordered excluded or removed from any public property, knowingly enters thereon or who remains on such property during an emergency period proclaimed by the Governor under ORS 131.715 and who refuses to leave such property upon request by the police, commits a Class A misdemeanor. [Formerly 145.630]

131.735 Review of exclusion order. Any person ordered removed or excluded from any public property under ORS 131.715 and 131.725 shall have immediate access to the circuit court for the county in which the property is located for review of the order of exclusion or removal. Such access shall be in the form of a writ of review and shall be given priority over all other cases on the docket of the circuit court. [Formerly 145.640]

(Special Law Enforcement Officers)

131.805 Authority to employ special agents. The Governor may employ, at such salaries as the Governor deems reasonable for the services rendered, special agents to effect the apprehension and conviction of criminals, the return of fugitives from justice, the investigation of cases in which the Governor believes the laws of the state are being violated, the supervision of persons paroled or conditionally pardoned from the Department of Corrections or the collection of evidence in any case, civil or criminal, in which the state is interested whenever in the judgment of the Governor it is necessary from the conditions existing in any case, whenever the Governor is convinced that criminals are likely to escape punishment and justice cannot be done by the regularly constituted authorities of any county of the state or of the state or whenever any emergency has arisen which in the judgment of the Governor would justify the Governor so doing. [Formerly 148.010; 1987 c.320 §17]

131.815 Presentment of facts to circuit court. Whenever in the opinion of the Governor the criminal laws of the state are not being faithfully executed and enforced and the circumstances justify the appointment of any sheriff, district attorney, constable or justice of the peace pro tem, the Governor shall lay the facts of which the Governor is advised before the circuit court, or any judge thereof, of the district of the office in question. The court or judge shall, without delay, in a summary manner consider the facts so presented and such further facts as can be gathered or may be presented by or on behalf of the Governor, the officer or any party interested. [Formerly 148.110]

131.825 Hearing. The court, or judge thereof, in conducting such hearing, shall have all the usual powers of the circuit court or judge, including the power to subpoena and examine witnesses of its own motion. The Governor, the officer affected or any party interested may subpoena witnesses and appear and participate in person or by counsel, and the officer shall be given reasonable opportunity to prepare and present this case. The Attorney General shall appear on behalf of the Governor if by the Governor requested so to do. [Formerly 148.120]

131.835 Request that judge of another district conduct hearing; traveling expenses. When the Governor has made a request for an investigation before the court or judge of the district of the office affected, the court or judge may request that the hearing be held before the court or judge of any other district and call in such court or judge to conduct the same at the regular place of holding court in the district of the office affected. Such a request shall be made by the court or judge without delay and the court or judge called in shall proceed without delay to conduct the hearing. The actual necessary traveling expenses of any court or judge that is called in shall be paid out of the funds appropriated for the purposes of ORS 131.815 to 131.875 upon properly verified vouchers being presented to the Secretary of State. [Formerly 148.130]

131.845 Findings. The court or judge shall make such findings as are justified by the facts adduced at the hearing and shall find as to whether or not the criminal laws of the state are being faithfully executed and enforced by the officers under investigation. [Formerly 148.140]

131.855 Appointment of special officers on finding that laws are not enforced. If it is found that the criminal laws of the state are not being faithfully executed and enforced by the officers under investigation, the Governor may appoint, for a period not longer than 90 days, such special officers as may be necessary to correct the failure to execute or enforce the criminal laws. [Formerly 148.150]

131.860 Qualifying of special officers; powers and duties. When appointed, special officers shall qualify in the same manner as provided by law for regularly elected officers, shall have all the power and authority of the regularly elected officers necessary to effectuate the purposes of the appointment and shall carry out the directions of the Governor, pursuant to the appointment, in the same manner and to the same extent as the duly elected officers could do or perform; and no greater power shall be conferred upon any special officer than is by law lodged with the regularly elected officers. [Formerly 148.160]

131.865 Compensation of special officers. The special officers provided for in ORS 131.855 shall receive a compensation for the time they are appointed equal to that provided for the regularly elected officers, the compensation to be paid in the same manner as the regular officers are paid. [Formerly 148.170]

131.875 Effect of appointment of special officers on salary of regular officers. The regularly elected, qualified and acting officers shall, during any appointment of a special officer, receive the salary provided by law, to the same extent as though no special officer had been appointed. [Formerly 148.180]

131.880 Appointment of railroad police officers; liability. The Governor, upon application of any railroad company operating in this state, may appoint and commission, during the pleasure of the Governor, persons designated by the company and to serve at the expense of the company, as police officers, with the powers of peace officers and who, after being duly sworn, may act as police officers to protect the railroad company property and the persons or property of the railroad company passengers or employees. The railroad company designating such persons is civilly responsible for any abuse of their authority. [1973 c.676 §1]

(Rewards)

131.885 Offer of reward. If any person charged with or convicted of any felony within this state breaks prison, escapes, absconds or flees or hides from justice, the county court or county governing body of the county in which the crime was committed, if the court or governing body deems it necessary, may offer a reward for information leading to the apprehension of such person by the appropriate police authority. [Formerly 149.010; 1981 c.300 §1; 1999 c.217 §1]

131.890 Entitlement to reward; use of public money to reward bounty hunter. (1) Any person providing information leading to the apprehension of a person for whom a reward has been offered under ORS 131.885 is entitled to and shall be paid the reward offered under ORS 131.885 or a proportionate share thereof if more than one claimant is entitled.

(2) No public money may be used to pay a reward to a bounty hunter under this section. As used in this subsection, "bounty hunter" means a private person who is in the business of apprehending persons who have forfeited security or broken the terms of a security release, fled from justice or escaped from confinement. [Formerly 149.020; 1981 c.300 §2; 1999 c.217 §2]

131.892 Offer of reward for information on commission of criminal offense. An organization, association or person may offer a reward for information leading to the apprehension and conviction of any person who has committed a criminal offense. [1993 c.543 §2; 1995 c.461 §1; 1999 c.217 §3]

131.895 Procedure for payment. The county court or county governing body, on the claim of the applicant for reward under ORS 131.885 to 131.895, shall determine whether the claimant is entitled to the reward. If it so determines, it shall certify the amount offered in reward, or a proportionate share thereof if more than one claimant is entitled, to the county clerk of the county and the county clerk shall draw a warrant on the treasurer of the county for the amount so authorized. [Formerly 149.030; 1981 c.300 §3]

131.897 Authority to order repayment of reward as part of sentence. (1) In addition to any other sentence it may impose as a result of a criminal conviction, the court may order that a defendant reimburse to a person, organization, association or public body or officer, any sum or portion thereof offered and paid by the person, organization, association or public body or officer under ORS 131.885 to 131.895, as a reward for information leading to the apprehension of the defendant. Reimbursement under this section shall be ordered paid into the court, for further transfer by the clerk to the person, organization, association or public body or officer entitled to it. The monetary obligation described in this section is a category

4 obligation under ORS 137.295.

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

(a) The financial resources of the defendant and the burden that reimbursement will impose, with due regard to the other obligations of the defendant; and

(b) The ability of the defendant to make reimbursement on an installment basis or on other conditions to be fixed by the court. [1981 c.300 §4; 1987 c.905 §13; 1993 c.543 §3; 1995 c.461 §2; 1999 c.217 §4]

LIABILITY FOR MEDICAL EXPENSES OF CERTAIN PERSONS

131.900 Liability for medical expenses for person restrained, detained or taken into custody. Except as otherwise provided by ORS 30.260 to 30.300, federal civil rights law or written agreement, the state, a county, a city, a law enforcement agency or local correctional facility thereof is not liable for charges or expenses for any medical services provided to an individual who is the object of efforts by a law enforcement officer to restrain or detain or take into custody. [1991 c.778 §8; 1993 c.196 §2]

131.990 [Formerly 145.990; repealed by 1987 c.526 §2]