

A-Engrossed
Senate Bill 130

Ordered by the Senate May 2
Including Senate Amendments dated May 2

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Hardy Myers for Attorney General's Restitution Reform Task Force)

SUMMARY

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

Allows court, with consent of victim, to order restitution of less than full amount of economic damages.

A BILL FOR AN ACT

1
2 Relating to restitution; amending ORS 137.106.

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

4 **SECTION 1.** ORS 137.106 is amended to read:

5 137.106. (1) When a person is convicted of a crime, or a violation as described in ORS 153.008,
6 that has resulted in economic damages, the district attorney shall investigate and present to the
7 court, prior to the time of sentencing, evidence of the nature and amount of the damages. If the
8 court finds from the evidence presented that a victim suffered economic damages, in addition to any
9 other sanction it may impose, the court shall **include one of the following in the judgment:**

10 (a) [*Include in the judgment*] A requirement that the defendant pay the victim restitution in a
11 specific amount that equals the full amount of the victim's economic damages as determined by the
12 court[; or].

13 (b) [*Include in the judgment*] A requirement that the defendant pay the victim restitution, and
14 that the specific amount of restitution will be established by a supplemental judgment based upon
15 a determination made by the court within 90 days of entry of the judgment. In the supplemental
16 judgment, the court shall establish a specific amount of restitution that equals the full amount of
17 the victim's economic damages as determined by the court. The court may extend the time within
18 which the determination and supplemental judgment may be completed for good cause. The lien,
19 priority of the lien and ability to enforce the specific amount of restitution established under this
20 paragraph by a supplemental judgment relates back to the date of the original judgment that is
21 supplemented.

22 (c)(A) **A requirement that the defendant pay the victim restitution in a specific amount**
23 **that is less than the full amount of the victim's economic damages, with the consent of the**
24 **victim.**

25 (B) **If the defendant is convicted of a person felony, as that term is defined in the rules**
26 **of the Oregon Criminal Justice Commission, a requirement that the defendant pay the victim**
27 **restitution in a specific amount that is less than the full amount of the victim's economic**

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

1 **damages, only with the written consent of the victim.**

2 (2) After the district attorney makes a presentation described in subsection (1) of this section,
3 if the court is unable to find from the evidence presented that a victim suffered economic damages,
4 the court shall make a finding on the record to that effect.

5 (3) No finding made by the court or failure of the court to make a finding under this section
6 limits or impairs the rights of a person injured to sue and recover damages in a civil action as
7 provided in ORS 137.109.

8 (4) If a judgment or supplemental judgment described in subsection (1) of this section includes
9 restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only
10 if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to
11 pay the judgment in full at the time the judgment is entered. If the court finds that the defendant
12 is unable to pay, the court may establish or allow an appropriate supervising authority to establish
13 a payment schedule, taking into consideration the financial resources of the defendant and the bur-
14 den that payment of restitution will impose, with due regard to the other obligations of the defend-
15 ant.

16 (5) If the defendant objects to the imposition, amount or distribution of the restitution, the court
17 shall allow the defendant to be heard on such issue at the time of sentencing or at the time the
18 court determines the amount of restitution.

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