

# Enrolled Senate Bill 130

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)

CHAPTER .....

AN ACT

Relating to restitution; amending ORS 137.106.

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

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

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

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

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

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

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

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

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

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

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

**Passed by Senate May 4, 2007**

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Secretary of Senate

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President of Senate

**Passed by House June 5, 2007**

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Speaker of House

**Received by Governor:**

.....M,....., 2007

**Approved:**

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State