2009 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION Proposed by the Oregon Legislative Figural Office

Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 233 STATUS: A Engrossed

SUBJECT: Creates statutory framework for victims to exercise their constitutional rights.

GOVERNMENT UNIT AFFECTED: Oregon Judicial Department, Department of Justice, Public

Defense Services Commission, District Attorneys

PREPARED BY: Tim Walker

REVIEWED BY: John Borden and Doug Wilson

DATE: February 18, 2009

<u>2009-2011</u> <u>2011-2013</u>

EXPENDITURES:

See Comments

EFFECTIVE DATE: On passage.

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This bill provides the statutory framework for crime victims to exert their rights provided in Article 42 and 43 of Article I of the Oregon Constitution. The constitutional rights granted by HJR 49 and 50 that were adopted by the voters in May of 2008. The requirements of the constitution, with respect to victim's rights, would exist with or without the provisions of this bill. The bill provides agencies a methodology to insure that victim's rights are considered in the process. Regardless, with or without this bill, there is a fiscal impact due to the passage of the ballot measures.

The fiscal impact for this bill is indeterminate. The bill provides victims of crimes certain rights and notifications as a case reaches critical stages as the case progresses through the criminal justice system. The bill is prescriptive about when and how a victim is to be notified of their rights and the processes around how the victim can assert their rights and how they might assert their rights.

This bill will require the court system to undertake new activities. The difficulty is in quantifying how many victims there potentially are and how many of these victims will choose to assert their rights. According to data from 2007, there were approximately 35,000 cases in which the most serious crime charged would trigger the victim notifications provisions of this bill. The bill not only includes victims, but also others such as victim's families, in the realm of individuals that could assert rights in any particular case. It would be difficult to reliably estimate how many victims may be eligible for crime victim's rights to develop a reliable estimate of the fiscal impact.

The Oregon Judicial Department (OJD) has estimated the additional cost at approximately \$43,000 per biennium. The majority of these costs are due to the notification processes outlined in the bill. On average, there are 37,000 cases per year that would require victim notification. Each case would require that the prosecuting attorney file a certification that the victims had been notified of their rights. At each succeeding stage of the process, the prosecuting attorney can orally certify that the victims have been

informed of their rights. Additional costs may be realized if a victim(s) is not informed of their rights. In this case the court must conduct a show cause hearing to determine whether or not the victim's rights have been violated. OJD estimates between 13 and 25 cases per year. This bill also provides that a victim can appeal directly to the Oregon Supreme Court for relief. OJD has estimated 10 cases per year may be appealed to the Oregon State Supreme Court. It should be noted that the additional staff and judge time would be spread over 27 judicial districts and the individual courts may have to adapt to shifts in workload. Participation in the Task Force on Victim's Rights Enforcement would be absorbed within current resources.

The Public Defense Services Commission (PDSC) has estimated the additional costs at approximately \$46,000 per biennium. PDSC's costs would be associated with reviewing, responding, and attending show cause hearings and any appeals heard by the Oregon Supreme Court. PDSC estimates approximately 170 show cause hearings at the trial court level and 10 cases per year at the appellate level. Participation in the Task Force on Victim's Rights Enforcement would be absorbed within current resources.

The Department of Justice (DOJ) established, through administrative actions, 2 positions (1.5 FTE) in the Crime Victims Services Division (CVSD) in May of 2008 to address the issues presented by the constitutional amendments. DOJ has also proposed a policy option package as part of the Governor's recommended budget to make these positions permanent within CVSD. The biennial cost of these positions is \$465,548. These positions will be responsible for rulemaking, training, outreach, and facilitating. The District Attorneys did not respond to requests for information, but it is likely that the District Attorneys and their staffs will incur additional cost associated with this bill. The above estimates are heavily qualified and based on a number of assumptions which could significantly vary; and a reliable estimate of the total fiscal impact of this bill is not available.