

A-Engrossed
House Bill 2663

Ordered by the House April 28
Including House Amendments dated April 28

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

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.

[Decreases penalty for crime of cheating to maximum of one year's imprisonment, \$6,250 fine, or both.]

Modifies rights granted to victim of crime in criminal prosecution. Extends period of time within which victim may assert rights.

A BILL FOR AN ACT

Relating to crime; amending ORS 147.508, 147.512 and 147.515.

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

SECTION 1. ORS 147.512 is amended to read:

147.512. (1) Notwithstanding ORS 147.510, at the beginning of *[any]* **each judicial settlement conference**, plea hearing *[and any]* **or** sentencing hearing, the prosecuting attorney shall inform the court whether the victim is present. **If the victim is not present, the prosecuting attorney shall inform the court whether the victim was informed of the conference or hearing.**

(2) In any case involving a defendant charged with a violent felony:

(a) If the victim requests, the prosecuting attorney shall make reasonable efforts to consult the victim *[regarding plea discussions]* before making a *[final]* plea **offer and before entering into a final plea** agreement.

(b) Before the court accepts a plea of guilty or no contest:

(A) If the victim is present, the court shall ask whether the victim **was consulted regarding plea negotiations, if the victim** agrees or disagrees with the plea agreement as presented to the court and whether the victim wishes to be heard regarding the plea agreement.

(B) If the victim is not present, the court shall ask the prosecuting attorney whether the victim requested to be *[notified]* **informed** and consulted regarding plea negotiations. If the victim made such a request, the court shall ask the prosecuting attorney **what reasonable efforts to inform and consult the victim concerning plea negotiations were made and** whether the victim agrees or disagrees with the plea agreement.

(c) If the court finds that the victim requested consultation regarding plea negotiations and that the prosecuting attorney failed to make reasonable efforts to consult *[with]* the victim, the court shall direct the prosecuting attorney to make reasonable efforts to consult *[with]* the victim and may not accept the plea unless the court makes a finding on the record that the interests of justice require the acceptance of the plea.

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 (3) Before the court imposes sentence, the court shall ask whether the victim wishes to express
2 the views described in ORS 137.013.

3 **SECTION 2.** ORS 147.508 is amended to read:

4 147.508. (1) At the request of a victim, the prosecuting attorney may request that the court
5 schedule a hearing to reconsider a release decision if:

6 (a) The victim did not have notice of, or an opportunity to be heard at, a hearing in which the
7 court released the defendant from custody or reduced the defendant's security amount; and

8 (b) The victim's request is made no later than [seven] 30 days after the victim knew or reason-
9 ably should have known of the release decision that is to be reconsidered.

10 (2) As used in this section, "release decision" includes:

11 (a) Decisions made at arraignment; and

12 (b) Decisions made at hearings described in ORS 419C.273 (4)(b)(A) to (C).

13 **SECTION 3.** ORS 147.515 is amended to read:

14 147.515. (1) A victim who wishes to allege a violation of a right granted to the victim in a
15 criminal proceeding by section 42 or 43, Article I of the Oregon Constitution, shall inform the court
16 within [seven] 30 days of the date the victim knew or reasonably should have known of the facts
17 supporting the allegation. The victim shall describe the facts supporting the allegation and propose
18 a remedy.

19 (2) The victim may inform the court of a claim:

20 (a) On a form prescribed by the Chief Justice of the Supreme Court; or

21 (b) On the record in open court and in the presence of the defendant and the prosecuting at-
22 torney.

23 (3) If the victim informs the court of a facially valid claim on a form under subsection (2)(a) of
24 this section, the court shall promptly issue the order to show cause described in ORS 147.517.

25 (4) If the victim informs the court of a facially valid claim orally under subsection (2)(b) of this
26 section and the court determines:

27 (a) That each person entitled to notice of the claim and a reasonable opportunity to be heard
28 is present, the court shall hold a hearing under ORS 147.530 as soon as practicable; or

29 (b) That any person entitled to notice of the claim and a reasonable opportunity to be heard is
30 not present, the court shall issue the order to show cause described in ORS 147.517.

31 (5) If the court determines that the victim has not alleged a facially valid claim, the court shall
32 enter an order dismissing the claim. The order must:

33 (a) Include the reasons the claim was dismissed;

34 (b) Be without prejudice to file, within seven days from the date the victim receives the order
35 dismissing the claim, a corrected claim for the sole purpose of correcting the deficiency identified
36 by the court; and

37 (c) Be in writing, unless the order is issued on the record in open court in the presence of the
38 victim, the prosecuting attorney and the defendant. If the court issues the order orally under this
39 paragraph, the court shall issue a written order as soon as practicable.

40 (6) If a victim informs the court of a claim orally and the court does not immediately hear the
41 matter, the court may require the victim to complete the form described in subsection (2)(a) of this
42 section.

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