

# D R A F T

## SUMMARY

Requires party in post-conviction relief proceeding to disclose witness information to opposing party at least 90 days prior to hearing.

### A BILL FOR AN ACT

Relating to post-conviction relief.

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

**SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 138.510 to 138.680.**

**SECTION 2. (1) In any proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680, a party shall provide to the other party, upon written request of the other party or an order of the court, the identity of and, except as provided in subsection (6) of this section, the contact information for any person the party may call as a witness.**

**(2) Unless otherwise ordered by the court, the disclosure required by subsection (1) of this section concerning any witness that may be qualified as an expert and providing evidence described in ORS 40.410, 40.415 or 40.420 must be accompanied by a written report that is prepared and signed by the witness. The report must contain:**

**(a) A complete statement of all opinions the witness intends to assert as an expert witness and the basis for and reasoning behind the opinions;**

**(b) The data or other information considered by the witness in forming the opinions;**

1 (c) Any exhibits that will be used to summarize or support the  
2 opinions;

3 (d) The witness's qualifications, including a list of all publications  
4 written by the witness within the previous 10 years;

5 (e) A list of all other cases in which the witness testified as an ex-  
6 pert during trial or by deposition within the previous four years; and

7 (f) The amount of compensation the witness was paid for consulta-  
8 tion and testimony in the proceeding.

9 (3) Unless the court orders otherwise, the disclosures required by  
10 subsections (1) and (2) of this section must be made:

11 (a) At least 90 days before hearing on the issues raised; or

12 (b) At least 14 days before hearing on the issues raised if the evi-  
13 dence disclosed is intended solely to contradict or rebut evidence on  
14 the same subject matter disclosed by the other party.

15 (4) A party shall supplement the disclosures required under sub-  
16 sections (1) and (2) of this section at least 45 days before the hearing  
17 if the party:

18 (a) Learns that the information disclosed is incomplete or incorrect  
19 in any material respect; or

20 (b) Decides to call a witness who was not previously identified.

21 (5) Upon being apprised of any breach of the duty imposed under  
22 subsections (1) and (2) of this section, and after taking into account  
23 the reason, if any, for the breach and the prejudice, if any, to the  
24 other party, the court may grant a continuance, refuse to permit a  
25 witness not properly disclosed from testifying, refuse to receive in ev-  
26 idence the material not disclosed, impose costs incurred by the other  
27 party as a result of the breach or enter such other order as the court  
28 considers appropriate.

29 (6) Unless ordered by the court, the defendant shall not disclose to  
30 the petitioner any personal identifiers, as defined in ORS 135.815, of the  
31 victim or any witness other than an expert witness.

1       **(7) Upon the request of either party, the court may enter a protec-**  
2 **tive order as provided in ORS 135.873.**

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