

D R A F T

SUMMARY

Allows prosecuting attorneys 90 days after sentencing to present restitution information to court.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to restitution for crime victims; creating new provisions; amending ORS 137.106; and declaring an emergency.

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

SECTION 1. ORS 137.106 is amended to read:

137.106. (1)(a) 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]* **within 90 days after entry of the judgment**, evidence of the nature and amount of the damages. **The court may extend the time by which the presentation must be made for good cause.** 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) A requirement] **enter a supplemental judgment requiring** 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.

[(b) 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

1 *of the judgment. In the supplemental judgment, the court shall establish a*
2 *specific amount of restitution that equals the full amount of the victim's eco-*
3 *nomical damages as determined by the court. The court may extend the time*
4 *within which the determination and supplemental judgment may be completed*
5 *for good cause. The lien, priority of the lien and ability to enforce the specific*
6 *amount of restitution established under this paragraph by a supplemental*
7 *judgment relates back to the date of the original judgment that is supple-*
8 *mented.]*

9 **(b) Only with the consent of the victim may the court:**

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

13 (B) **Order**, if the defendant is convicted of a person felony, as that term
14 is defined in the rules of the Oregon Criminal Justice Commission, [*a re-*
15 *quirement*] that the defendant pay the victim restitution in a specific amount
16 that is less than the full amount of the victim's economic damages[, *only with*
17 *the written consent of the victim*].

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

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

25 (4)(a) If a judgment or supplemental judgment described in subsection (1)
26 of this section includes restitution, a court may delay the enforcement of the
27 monetary sanctions, including restitution, only if the defendant alleges and
28 establishes to the satisfaction of the court the defendant's inability to pay
29 the judgment in full at the time the judgment is entered. If the court finds
30 that the defendant is unable to pay, the court may establish or allow an
31 appropriate supervising authority to establish a payment schedule, taking

1 into consideration the financial resources of the defendant and the burden
2 that payment of restitution will impose, with due regard to the other obli-
3 gations of the defendant. The supervising authority shall be authorized to
4 modify any payment schedule established under this section.

5 (b) As used in this subsection, “supervising authority” means any state
6 or local agency that is authorized to supervise the defendant.

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

11 **SECTION 2. The amendments to ORS 137.106 by section 1 of this**
12 **2013 Act apply to all prosecutions commenced on or after the effective**
13 **date of this 2013 Act.**

14 **SECTION 3. This 2013 Act being necessary for the immediate pres-**
15 **ervation of the public peace, health and safety, an emergency is de-**
16 **clared to exist, and this 2013 Act takes effect on its passage.**

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