

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass with Amendments to the A-Engrossed Measure. (Printed B-Engrossed)

Vote: 5 - 0 - 0

Yeas: Close, Dingfelder, Kruse, Roblan, Prozanski

Nays: 0

Exc.: 0

Prepared By: Mike Schmidt, Counsel

Meeting Dates: 5/14, 5/21

WHAT THE MEASURE DOES: Amends ORS 137.106 to make clear that the prosecuting attorney must present restitution information to the court within 90 days of the time that judgment is entered. Provides prosecutor must give defense attorney evidence of restitution at least 10 days prior to the hearing. Specifies that remedy for failing to provide restitution information to defense attorney 10 days before the hearing is a continuance that does not count against the 90-day time limit.

ISSUES DISCUSSED:

- The state of the law should be back to where it was before the court decided *State v. McLaughlin*

EFFECT OF COMMITTEE AMENDMENT: Specifies that remedy for failing to provide restitution information to defense attorney 10 days before the hearing is a continuance that does not count against the 90-day time limit.

BACKGROUND: In *State v. McLaughlin* the Oregon Court of Appeals strictly interpreted the restitution statute to require the prosecuting attorney to present the victim’s restitution information to the court “prior to the time of sentencing.” This was a departure from current practice around the state, and drastically shifted the timeline that district attorneys utilized for gathering and presenting this information. The Court’s reading of the statute led to parties trying to awkwardly figure out exactly when the restitution presentation should be made, since restitution has historically been a part of a defendant’s sentence yet the trial courts were now required to have a presentencing sentencing hearing to determine restitution before they moved on to the rest of the imposition of sentence. House Bill 3277 B makes it clear that the legislature does not intend to limit the timeframe that district attorneys have to present the victim’s information to “prior to sentencing,” and would return the state of the law to where the practitioners believed it was previous to this ruling.