

Enrolled
House Bill 3277

Sponsored by COMMITTEE ON JUDICIARY (at the request of Attorney General Ellen F. Rosenblum)

CHAPTER

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]* **at the time of sentencing or 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 judgment or 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. **The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.**

[(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 of the judgment. In the supplemental judgment, the court shall establish a specific amount of restitution that equals the full amount of the victim's economic damages as determined by the court. The court may extend the time within which the determination and supplemental judgment may be completed for good cause. The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.]

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

[(B) If the defendant is convicted of a person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission, a requirement that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages, only with the written consent of the victim.]

(b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages only if:

(A) The victim consents to the lesser amount, if the conviction is not for a person felony;
or

(B) The victim consents in writing to the lesser amount, if the conviction is for a person felony.

(c) As used in this subsection, "person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

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

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

(4)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to pay the judgment in full at the time the judgment is entered. If the court finds that the defendant is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule, taking into consideration the financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant. The supervising authority shall be authorized to modify any payment schedule established under this section.

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

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

(6)(a) At least 10 days prior to the presentation described in subsection (1) of this section, the district attorney shall:

(A) Disclose to the defendant the names of any witnesses that may be called during the presentation; and

(B) Provide the defendant with copies of, or allow the defendant to inspect, any exhibits that will be used or introduced during the presentation.

(b) If the court finds that the district attorney has violated the requirements of this subsection, the court shall grant a continuance to allow additional time for preparation upon request of the defendant. Any additional time granted under this paragraph may not count toward the 90-day time limitation described in subsection (1) of this section.

SECTION 2. The amendments to ORS 137.106 by section 1 of this 2013 Act apply to sentencing occurring on or after the effective date of this 2013 Act.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 29, 2013

Repassed by House June 5, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 3, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State