

House Bill 3277

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

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 **as introduced**.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to restitution for crime victims; creating new provisions; amending ORS 137.106; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 137.106 is amended to read:

6 137.106. (1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008,
7 that has resulted in economic damages, the district attorney shall investigate and present to the
8 court, [*prior to the time of sentencing*] **within 90 days after entry of the judgment**, evidence of the
9 nature and amount of the damages. **The court may extend the time by which the presentation**
10 **must be made for good cause.** If the court finds from the evidence presented that a victim suffered
11 economic damages, in addition to any other sanction it may impose, the court shall [*include one of*
12 *the following in the judgment:*]

13 [*(a) A requirement*] **enter a supplemental judgment requiring** that the defendant pay the vic-
14 tim restitution in a specific amount that equals the full amount of the victim's economic damages
15 as determined by the court.

16 [*(b) A requirement that the defendant pay the victim restitution, and that the specific amount of*
17 *restitution will be established by a supplemental judgment based upon a determination made by the*
18 *court within 90 days of entry of the judgment. In the supplemental judgment, the court shall establish*
19 *a specific amount of restitution that equals the full amount of the victim's economic damages as deter-*
20 *mined by the court. The court may extend the time within which the determination and supplemental*
21 *judgment may be completed for good cause. The lien, priority of the lien and ability to enforce the*
22 *specific amount of restitution established under this paragraph by a supplemental judgment relates back*
23 *to the date of the original judgment that is supplemented.*]

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

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

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

31 (2) After the district attorney makes a presentation described in subsection (1) of this section,

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 if the court is unable to find from the evidence presented that a victim suffered economic damages,
2 the court shall make a finding on the record to that effect.

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

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

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

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

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

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

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