

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: Minimal fiscal impact, no statement issued****SUBSEQUENT REFERRAL TO:**

Action:**Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 3/9

WHAT THE MEASURE DOES: Modifies definition of “victim” for restitution purposes to include the estate of person against which an offense was committed. Clarifies that right of restitution passes to estate of person entitled to restitution upon death of person.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

BACKGROUND: The victim of a crime is entitled to restitution under ORS 137.106. “Victim” is defined in ORS 137.103(4) and includes: 1) the person against whom the defendant committed the criminal offense; 2) any person whom the court determines has suffered economic damages as a result of the defendant’s criminal conduct; 3) the Criminal Injuries Compensation Account; and, 4) an insurance carrier, if it expended money on behalf of a victim. The Court of Appeals held in *State v Patton*, 237 Or App 46 (2009) that the estate of a victim cannot claim restitution on behalf of a deceased victim because an estate is not a “person,” which is defined in ORS 161.015(5) as a human being, a public or private corporation, an unincorporated association, or a government entity. As a result of this holding, a person who has been convicted of elder abuse, which may include significant financial harm, has no restitution obligation to the estate of a victim, should the victim pass away.

House Bill 2226-A was developed as a solution to this issue. It specifies that the right of restitution passes to the estate of a victim should a victim die and lists the estate, successors in interest, trust, trustees, or beneficiaries of a trust as victims for purposes of restitution.