

House Bill 2629

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Provides that if district attorney presents documentary evidence of medical service charges at restitution hearing, evidence creates rebuttable presumption that charges are reasonable.

A BILL FOR AN ACT

1
2 Relating to restitution evidence; amending ORS 137.106.

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

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

5 137.106. (1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008,
6 that has resulted in economic damages, the district attorney shall investigate and present to the
7 court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature
8 and amount of the damages. The court may extend the time by which the presentation must be made
9 for good cause.

10 **(b) If the district attorney presents evidence consisting of documentation of charges for**
11 **medical, hospital, nursing or rehabilitative services, or other health care services, the evi-**
12 **dence creates a rebuttable presumption that the charges for the services reflected in the**
13 **documentation are reasonable.**

14 (c) If the court finds from the evidence presented that a victim suffered economic damages, in
15 addition to any other sanction it may impose, the court shall enter a judgment or supplemental
16 judgment requiring that the defendant pay the victim restitution in a specific amount that equals the
17 full amount of the victim's economic damages as determined by the court. The lien, priority of the
18 lien and ability to enforce the specific amount of restitution established under this paragraph by a
19 supplemental judgment relates back to the date of the original judgment that is supplemented.

20 [(b)] **(d)** Notwithstanding paragraph [(a)] (c) of this subsection, a court may order that the de-
21 fendant pay the victim restitution in a specific amount that is less than the full amount of the
22 victim's economic damages only if:

23 (A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an au-
24 thorized representative of the victim consents to the lesser amount, if the conviction is not for a
25 person felony; or

26 (B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an au-
27 thorized representative of the victim consents in writing to the lesser amount, if the conviction is
28 for a person felony.

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

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

22 (A) Disclose to the defendant the names of any witnesses that may be called during the pres-
 23 entation; and

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

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

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