

House Bill 3077

Sponsored by Representatives RESCHKE, WILLIAMSON; Representatives BARKER, OLSON, POST, Senators HANSELL, LINTHICUM, ROBLAN, THATCHER

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**.

Requires court, upon request of crime victim, to order that victim's electronic mail address and social media account identifying information not be given to defendant unless good cause is shown. Authorizes law enforcement agency to notify victim of victim's rights electronically.

A BILL FOR AN ACT

1
2 Relating to crime victims; amending ORS 135.970 and 147.417.

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

4 **SECTION 1.** ORS 135.970 is amended to read:

5 135.970. (1)(a) *[If]* **Upon the request of** the victim or a witness *[requests]*, the court shall order
6 that the victim's or witness's address and phone number not be given to the defendant unless good
7 cause is shown to the court.

8 **(b) Upon the request of the victim, the court shall order that the following information**
9 **not be given to the defendant unless good cause is shown to the court:**

10 **(A) The victim's electronic mail address; and**

11 **(B) Any user names or other identifying information associated with the victim's social**
12 **media accounts.**

13 **(c) As used in this subsection, "social media" has the meaning given that term in ORS**
14 **659A.330.**

15 (2) If contacted by the defense or any agent of the defense, the victim must be clearly informed
16 by the defense or other contacting agent, either in person or in writing, of the identity and capacity
17 of the person contacting the victim, that the victim does not have to talk to the defendant's attor-
18 ney, or other agents of the defendant, or provide other discovery unless the victim wishes, and that
19 the victim may have a district attorney, assistant attorney general or other attorney or advocate
20 present during any interview or other contact.

21 (3) A victim may not be required to be interviewed or deposed by or give discovery to the de-
22 fendant, the defendant's attorney or any agent of the defense unless the victim consents. This sub-
23 section does not prohibit the defendant from:

24 (a) Subpoenaing or examining the victim at trial or in a pretrial proceeding when the purpose
25 is other than for discovery; or

26 (b) Subpoenaing books, papers or documents as provided in ORS 136.580.

27 (4)(a) Any pretrial release order must prohibit any contact with the victim, either directly or
28 indirectly, unless specifically authorized by the court having jurisdiction over the criminal charge.
29 This subsection shall not limit contact by the defense attorney, or an agent of the defense attorney,
30 other than the defendant, in the manner set forth in subsection (2) 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 (b) If a victim notifies the district attorney that the defendant, either directly or indirectly,
 2 threatened or intimidated the victim, the district attorney shall notify the court with jurisdiction
 3 over the criminal matter and the defense attorney. If the defendant is not in custody and the court
 4 finds there is probable cause to believe the victim has been threatened or intimidated by the de-
 5 fendant, either directly or indirectly, the court shall immediately issue an order to show cause why
 6 defendant’s release status should not be revoked. After conducting such hearing as it deems appro-
 7 priate, if the court finds that the victim has been threatened or intimidated by the defendant, either
 8 directly or indirectly, the defendant’s release status shall be revoked and the defendant shall be held
 9 in custody with a security amount set in an amount sufficient to ensure the safety of the victim and
 10 the community.

11 (5) As used in this section, “victim” means the person or persons who have suffered financial,
 12 social, psychological or physical harm as a result of a crime against the person or a third person
 13 and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate
 14 family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no
 15 event shall the criminal defendant be considered a victim.

16 **SECTION 2.** ORS 147.417 is amended to read:

17 147.417. (1) As soon as is reasonably practicable in a criminal action in which there is a victim,
 18 a law enforcement agency shall notify a person who reasonably appears to be a victim of the offense
 19 of the person’s rights under section 42, Article I of the Oregon Constitution. The notice may be oral
 20 or written **and written notice may be provided electronically**. If exercise of any of the rights
 21 depends upon the victim making a request, the law enforcement agency shall include in the notice
 22 the time period in which the victim is required to make the request. A law enforcement agency
 23 satisfies the requirements of this section if the law enforcement agency:

24 (a) Provides notice to the victim named in the accusatory instrument, the victim’s guardian or,
 25 in a homicide case, the victim’s next of kin; and

26 (b) Presents, if written notice is given, the notice directly to the victim, [or] sends the notice
 27 to the last address given to the law enforcement agency by the victim **or sends the notice elec-**
 28 **tronically to the cellular phone number or electronic mail address given to the law enforce-**
 29 **ment agency by the victim.**

30 (2) Failure by a law enforcement agency to properly notify the victim as required by this sec-
 31 tion:

32 (a) Is not grounds for setting aside a conviction.

33 (b) Does not affect the validity of a plea, except as provided by section 42 or 43, Article I of the
 34 Oregon Constitution.

35 (3) Nothing in subsection (2) of this section justifies a failure to properly notify the victim.

36 (4)(a) As used in this section, “law enforcement agency” means the police agency that initially
 37 responds in the case, the police agency that investigates the case or the district attorney who
 38 prosecutes the case.

39 (b) The district attorney shall determine if the notice required by this section has been given
 40 and, if not, shall provide the notice.