

Dear Chair Bynum, Vice Chairs Noble and Power, and Members of the Committee,

I am a criminal public defender in Marion County and a resident of Clackamas County. I oppose SB 214 because I believe it will have a negative and unjust impact. Many District Attorney offices have a victim's assistance program, typically it is the victim's assistant to gather restitution amounts. Often, the prosecutor themselves does not verify the amount that is being requested. Often, I receive notice of an amount without any documentation and am required to ask the DA to provide that to me. This means that there was no verification process from the beginning. Two examples of when I was provided documentation to justify the amount are as follows: (1) my client plead guilty to breaking another person's car window. The owner of the car was involved in an accident the day after the window was broken, resulting in the car being totaled. The owner then requested the total value of her vehicle, not just the cost to replace the window. The District Attorney also requested that amount. A hearing was held and the restitution reduced. (2) my client plead guilty to hitting another car with his car causing some damage. The hit vehicle had extensive pre-existing damage. As a result, the insurance company determined the car was totaled. The owner of the vehicle requested the total value of his vehicle and brought a Kelly Blue Book estimate for its value, but listed the car as being in "excellent" condition - artificially increasing the value of the car. The DA also requested the inflated amount of the car. A hearing was held and the restitution amount reduced.

In both of those instances, because the district attorney failed to verify the amount being requested, we were forced to have a hearing on the matter. It is not uncommon for victims to also request lost wages for having to attend court. Therefore, if we are forced to have hearings to rebut what should not have been considered reasonable restitution amounts, it runs the risk of the defendant having to pay for additional lost wages. Shifting the burden of proof would greatly disadvantage defendants, lengthen parties involvement in the criminal justice system and eat judicial resources.