

HB 4075 -1, -2 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/1, 2/10

WHAT THE MEASURE DOES:

Modifies procedures for district attorney to request restitution and court to order restitution in criminal cases and certain violations. Creates presumption that economic damages are reasonable if specified documentation of the damages is provided at a restitution proceeding. Requires 50 percent of restitution ordered to insurance carriers be distributed to Criminal Injuries Compensation Account upon collection. Specifies awards of restitution as Level I for priority of payment in criminal judgments in circuit and local courts.

ISSUES DISCUSSED:

- Difficulties crime victims have asserting a claim for restitution
- Concerns over reasonableness presumption for certain documents
- Pending Oregon Supreme Court opinion
- Implications of disbursing 50% of restitution ordered to insurance carriers be distributed to Criminal Injuries Compensation Account upon collection

EFFECT OF AMENDMENT:

- 1 Allows court to extend deadline for district attorney to request restitution for good cause.
- 2 Removes requirement that 50 percent of restitution ordered to insurance carriers be distributed to Criminal Injuries Compensation Account upon collection.

BACKGROUND:

When a defendant is convicted of an offense that results in economic damages, the district attorney is required to present evidence of the nature and amount of the damages at the time of sentencing or within 90 days after entry of judgment. The 90 days may be extended for good cause. If restitution is no longer an option, the court may be able to impose a compensatory fine under ORS 137.101. *State v. King*, 275 Or. App. 99, 105-106 (2015).

Recent Oregon Court of Appeals decisions have held that certain evidence is required to establish the amount of damages incurred by a victim is reasonable prior to ordering restitution.

The Criminal Injuries Compensation Account within the Department of Justice provides compensation for certain losses of a victim of a “compensable crime” and for maintenance of prosecuting attorneys victims’ assistance programs approved by the Attorney General. ORS 147.225.

ORS 137.146 establishes five levels of priority for application of payments on criminal judgments. Level I obligations have the highest level of priority and Level V obligations have the lowest priority. Currently, restitution is a Level II obligation in circuit and local court judgments.

House Bill 4075 modifies procedures for the district attorney to present restitution evidence and establishes that economic damages will be presumed reasonable if the damages are documented as specified. The measure specifies that a percentage of restitution ordered to insurance carriers be distributed to the Criminal Injuries Compensation Account and that restitution be categorized as a Level I obligation in certain court judgments.