

# Deschutes Defenders

A Public Defense Nonprofit

Karla Nash  
Joel A. Wirtz  
Kat C. Griffith  
Sarah J. Yates  
Andrew W. Ince, Jr.  
Courtney L. Quale-Conrad  
Kaycee McClary  
Erika Thomas

215 N.W. Greenwood, Suite 200  
Bend, Oregon 97703  
541-389-7723  
Toll Free 1-800-762-6616  
Fax 541-383-7177  
info@despd.org  
www.despd.org

Julianne Willis  
Christopher R. Morgan  
Lee M. Griffith  
Leslie T. Nitcher  
J. Clark Fry  
Rebecca Parker  
Jason Wheelless

1 February 2022

Re: HB 4075

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

I am a managing and supervisory attorney providing public defense services. A portion of my caseload is adult criminal defense. I have been practicing in Deschutes County for 23 years. I hereby declare and swear to the following:

In my professional opinion, HB 4075 is detrimental to justice. Section 1 unfairly shifts the burden to the defense by creating a presumption of proper damages whenever a prosecutor submits a bill nor damages statement from a business. Oregon's restitution statutes are presently quite workable. When hearings are conducted, subject to rules of evidence, business records can be admitted with proper foundation.

137.106 requires the state to prove economic damages suffered by the victim, and the state is commonly able to have the time period left open 90 days after the initial judgment. Where it is simple for a crime victim to submit a bill or cost estimate from a business (for example, from a body shop, in the instance of a Criminal Mischief case), it is not uncommon for such bill or statement to refer to work or proposed work includes damages for repairs not related to the crime. The requirement that the state lay the foundation that the requested economic damages relate to the crime of conviction is not unreasonable. These hearings are generally brief and straightforward. There is already an efficient process for stipulating to restitution amounts that are not contested.

Many Oregon defendants are represented by court-appointed counsel. As the ABA study recently determined, Oregon has too few attorneys representing indigent defendants (31% of the needed attorneys to handle the present caseload). To add to an already excessive caseload the obligation to file specific factual objections to refute a new presumption of proper damages would result in defendants lacking adequate representation. Defendants have a right to challenge damages. However, if failure to file a specific motion timely results in an unknowing waiver by the accused, there is a substantial access to justice problem. This would certainly fall almost entirely on defendants who lack means.

I am available to answer any questions the committee or my representative may have about this letter and will endeavor to provide a timely and accurate response.

Karla L. Nash, OSB #942037

---

**Office Manager**  
Pam Williams

**Receptionist/Assistant**  
Candice Trapp

**Legal Assistants**  
Jessica Lindquist  
Trisha Blair  
Allison Emmerick

**Caseload Manager**  
Tina Lindquist  
**Asst. Caseload Mgr.**  
Shawn Budke  
**Case Manager**  
Adam Poffenbarger

**Chief Investigator**  
Vicki Kipp  
**Investigators**  
Curtis Taylor  
Nick Carter  
Katie Nikkel