

B-Engrossed
House Bill 3277

Ordered by the Senate May 29
Including House Amendments dated April 23 and Senate Amendments
dated May 29

Sponsored by COMMITTEE ON JUDICIARY (at the request of Attorney General Ellen F. Rosenblum)

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.

Allows prosecuting attorneys 90 days after sentencing to present restitution information to court. Requires prosecuting attorney to disclose exhibits and witnesses to defendant 10 days before restitution presentation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to restitution for crime victims; creating new provisions; amending ORS 137.106; and de-
3 claring an emergency.

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

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

6 137.106. (1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008,
7 that has resulted in economic damages, the district attorney shall investigate and present to the
8 court, *[prior to the time of sentencing]* **at the time of sentencing or within 90 days after entry**
9 **of the judgment**, evidence of the nature and amount of the damages. **The court may extend the**
10 **time by which the presentation must be made for good cause.** If the court finds from the evi-
11 dence presented that a victim suffered economic damages, in addition to any other sanction it may
12 impose, the court shall *[include one of the following in the judgment:]*

13 *[(a) A requirement]* **enter a judgment or supplemental judgment requiring** that the defendant
14 pay the victim restitution in a specific amount that equals the full amount of the victim's economic
15 damages as determined by the court. **The lien, priority of the lien and ability to enforce the**
16 **specific amount of restitution established under this paragraph by a supplemental judgment**
17 **relates back to the date of the original judgment that is supplemented.**

18 *[(b) A requirement that the defendant pay the victim restitution, and that the specific amount of*
19 *restitution will be established by a supplemental judgment based upon a determination made by the*
20 *court within 90 days of entry of the judgment. In the supplemental judgment, the court shall establish*
21 *a specific amount of restitution that equals the full amount of the victim's economic damages as deter-*
22 *mined by the court. The court may extend the time within which the determination and supplemental*
23 *judgment may be completed for good cause. The lien, priority of the lien and ability to enforce the*
24 *specific amount of restitution established under this paragraph by a supplemental judgment relates back*
25 *to the date of the original judgment that is supplemented.]*

26 *[(c)(A) A requirement that the defendant pay the victim restitution in a specific amount that is less*

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 *than the full amount of the victim's economic damages, with the consent of the victim.]*

2 *[(B) If the defendant is convicted of a person felony, as that term is defined in the rules of the*
3 *Oregon Criminal Justice Commission, a requirement that the defendant pay the victim restitution in a*
4 *specific amount that is less than the full amount of the victim's economic damages, only with the written*
5 *consent of the victim.]*

6 **(b) Notwithstanding paragraph (a) of this subsection, a court may order that the de-**
7 **fendant pay the victim restitution in a specific amount that is less than the full amount of**
8 **the victim's economic damages only if:**

9 **(A) The victim consents to the lesser amount, if the conviction is not for a person felony;**
10 **or**

11 **(B) The victim consents in writing to the lesser amount, if the conviction is for a person**
12 **felony.**

13 **(c) As used in this subsection, "person felony" has the meaning given that term in the**
14 **rules of the Oregon Criminal Justice Commission.**

15 (2) After the district attorney makes a presentation described in subsection (1) of this section,
16 if the court is unable to find from the evidence presented that a victim suffered economic damages,
17 the court shall make a finding on the record to that effect.

18 (3) No finding made by the court or failure of the court to make a finding under this section
19 limits or impairs the rights of a person injured to sue and recover damages in a civil action as
20 provided in ORS 137.109.

21 (4)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes
22 restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only
23 if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to
24 pay the judgment in full at the time the judgment is entered. If the court finds that the defendant
25 is unable to pay, the court may establish or allow an appropriate supervising authority to establish
26 a payment schedule, taking into consideration the financial resources of the defendant and the bur-
27 den that payment of restitution will impose, with due regard to the other obligations of the defend-
28 ant. The supervising authority shall be authorized to modify any payment schedule established under
29 this section.

30 (b) As used in this subsection, "supervising authority" means any state or local agency that is
31 authorized to supervise the defendant.

32 (5) If the defendant objects to the imposition, amount or distribution of the restitution, the court
33 shall allow the defendant to be heard on such issue at the time of sentencing or at the time the
34 court determines the amount of restitution.

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

37 **(A) Disclose to the defendant the names of any witnesses that may be called during the**
38 **presentation; and**

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

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

45 **SECTION 2. The amendments to ORS 137.106 by section 1 of this 2013 Act apply to sen-**

1 **tencings occurring on or after the effective date of this 2013 Act.**

2 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
4 **on its passage.**

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