

A-Engrossed
Senate Bill 214

Ordered by the Senate April 26
Including Senate Amendments dated April 26

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon District Attorneys Association)

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.

[Expands definition of "victim," for purposes of restitution ordered as part of criminal sentence, to include person or entity that has expended moneys on behalf of, or provided services to, minor victim. Authorizes court to order restitution when defendant found guilty except for insanity.] Provides that certain evidence of economic damages creates rebuttable presumption of reasonableness **for purposes of restitution ordered as part of criminal sentence.**

[Authorizes district attorney to present evidence of restitution within 90 days after adjudication or other final disposition in juvenile delinquency case. Authorizes court to extend time period for presentation for good cause.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to restitution; creating new provisions; amending ORS 137.106; and prescribing an effective
3 date.

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, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature
9 and amount of the damages. The court may extend the time by which the presentation must be made
10 for good cause. **Evidence of economic damages consisting of a record, bill, estimate or invoice,**
11 **produced by a third party and introduced by the district attorney during the presentation,**
12 **creates a rebuttable presumption that the charge, expense or cost documented in the evi-**
13 **dence is reasonable.** If the court finds from the evidence presented that a victim suffered economic
14 damages, in addition to any other sanction it may impose, the court shall enter a judgment or sup-
15 plemental judgment requiring that the defendant pay the victim restitution in a specific amount that
16 equals the full amount of the victim's economic damages as determined by the court. The lien, pri-
17 ority of the lien and ability to enforce the specific amount of restitution established under this
18 paragraph by a supplemental judgment relates back to the date of the original judgment that is
19 supplemented.

20 (b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay
21 the victim restitution in a specific amount that is less than the full amount of the victim's economic
22 damages only if:

23 (A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an au-

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 thorized representative of the victim consents to the lesser amount, if the conviction is not for a
2 person felony; or

3 (B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an au-
4 thorized representative of the victim consents in writing to the lesser amount, if the conviction is
5 for a person felony.

6 (c) As used in this subsection, “person felony” has the meaning given that term in the rules of
7 the Oregon Criminal Justice Commission.

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

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

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

23 (b) As used in this subsection, “supervising authority” means any state or local agency that is
24 authorized to supervise the defendant.

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

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

30 (A) Disclose to the defendant the names of any witnesses that may be called during the pres-
31 entation; and

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

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

38 **SECTION 2. The amendments to ORS 137.106 by section 1 of this 2021 Act apply to crimes**
39 **committed on or after the effective date of this 2021 Act.**

40 **SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021**
41 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**