

SENATE AMENDMENTS TO SENATE BILL 214

By COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

April 26

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest of the line and insert
2 “amending ORS 137.106; and prescribing an effective date.”.

3 Delete lines 4 through 27 and delete pages 2 through 5 and insert:

4 “**SECTION 1.** ORS 137.106 is amended to read:

5 “137.106. (1)(a) When a person is convicted of a crime, or a violation as described in ORS
6 153.008, that has resulted in economic damages, the district attorney shall investigate and present
7 to the court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the
8 nature and amount of the damages. The court may extend the time by which the presentation must
9 be made for good cause. **Evidence of economic damages consisting of a record, bill, estimate
10 or invoice, produced by a third party and introduced by the district attorney during the
11 presentation, creates a rebuttable presumption that the charge, expense or cost documented
12 in the evidence is reasonable.** If the court finds from the evidence presented that a victim suffered
13 economic damages, in addition to any other sanction it may impose, the court shall enter a judgment
14 or supplemental judgment requiring that the defendant pay the victim restitution in a specific
15 amount that equals the full amount of the victim’s economic damages as determined by the court.
16 The lien, priority of the lien and ability to enforce the specific amount of restitution established
17 under this paragraph by a supplemental judgment relates back to the date of the original judgment
18 that is supplemented.

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

22 “(A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an
23 authorized representative of the victim consents to the lesser amount, if the conviction is not for a
24 person felony; or

25 “(B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an
26 authorized representative of the victim consents in writing to the lesser amount, if the conviction
27 is for a person felony.

28 “(c) As used in this subsection, ‘person felony’ has the meaning given that term in the rules of
29 the Oregon Criminal Justice Commission.

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

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

1 “(4)(a) If a judgment or supplemental judgment described in subsection (1) of this section in-
2 cludes restitution, a court may delay the enforcement of the monetary sanctions, including
3 restitution, only if the defendant alleges and establishes to the satisfaction of the court the
4 defendant’s inability to pay the judgment in full at the time the judgment is entered. If the court
5 finds that the defendant is unable to pay, the court may establish or allow an appropriate super-
6 vising authority to establish a payment schedule, taking into consideration the financial resources
7 of the defendant and the burden that payment of restitution will impose, with due regard to the
8 other obligations of the defendant. The supervising authority shall be authorized to modify any
9 payment schedule established under this section.

10 “(b) As used in this subsection, ‘supervising authority’ means any state or local agency that is
11 authorized to supervise the defendant.

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

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

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

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

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

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

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