

SB 214-1
(LC 3037)
4/1/21 (JLM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 214**

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

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

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

1 by a supplemental judgment relates back to the date of the original judgment
2 that is supplemented.

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

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

9 “(B) The victim or, if the victim is an estate, successor in interest, trust
10 or other entity, an authorized representative of the victim consents in writ-
11 ing to the lesser amount, if the conviction is for a person felony.

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

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

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

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

1 modify any payment schedule established under this section.

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

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

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

10 “(A) Disclose to the defendant the names of any witnesses that may be
11 called during the presentation; and

12 “(B) Provide the defendant with copies of, or allow the defendant to in-
13 spect, any exhibits that will be used or introduced during the presentation.

14 “(b) If the court finds that the district attorney has violated the require-
15 ments of this subsection, the court shall grant a continuance to allow addi-
16 tional time for preparation upon request of the defendant. Any additional
17 time granted under this paragraph may not count toward the 90-day time
18 limitation described in subsection (1) of this section.

19 **“SECTION 2. The amendments to ORS 137.106 by section 1 of this
20 2021 Act apply to crimes committed on or after the effective date of
21 this 2021 Act.**

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

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