

**HB 3816 A STAFF MEASURE SUMMARY**

**Carrier:** Sen. Broadman

**Senate Committee On Judiciary**

---

**Action Date:** 05/20/25

**Action:** Do pass the A-Eng bill.

**Vote:** 5-1-0-0

**Yeas:** 5 - Broadman, Gelser Blouin, Manning Jr, Prozanski, Thatcher

**Nays:** 1 - McLane

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact, statement issued (Indeterminate Impact)

**Prepared By:** Kris Kolta, LPRO Analyst

**Meeting Dates:** 5/8, 5/19, 5/20

---

**WHAT THE MEASURE DOES:**

The measure requires an insurance carrier receiving an award of criminal restitution under ORS 137.103(3), ORS 419C.450, or ORS 811.706 to pay 50 percent of the award to the Department of Justice to fund victims' services, and it credits the full amount of a restitution award to the defendant towards any resulting civil judgment. The measure also allows an insurance carrier to direct a district attorney not to seek restitution so the insurance carrier can instead pursue recovery in civil litigation.

**ISSUES DISCUSSED:**

- Criminal versus civil restitution
- Public representation and resources to pursue criminal restitution
- Insurers' use of public representation and ability to opt out to pursue civil recovery
- The Takings Clause of the U.S. Constitution
- Insurer as a "victim" under the Oregon Constitution
- Measure's application to amounts actually collected, not amounts awarded

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

The purpose of ordering restitution in a criminal proceeding is not to provide full compensation to a crime victim. Rather, restitution is intended to correct a defendant's behavior to accomplish both rehabilitation and deterrence. As such, restitution does not necessarily fully compensate the victim, does not include general or punitive damages, and a defendant cannot be required to pay damages beyond their ability to pay. *State v. Hart*, 299 Or 128, 138 (1985).

ORS 137.109(1) provides that an order of restitution does not impair a victim's right to bring a civil action against the defendant although amounts paid in restitution are credited to the defendant. Restitution is intended as penal, not compensatory, and is not meant to be a means of seeking quasi-civil recovery. *Id.* at 139.