

# Law Office of Erin Olson, P.C.

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TO: House Committee on Judiciary

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FROM: Erin K. Olson, Esq.

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**RE: HB 3825–Reduces Collection Time for Compensatory Fines to Victims**

I am an attorney in private practice. For more than 20 years, my practice has been devoted to representing and advocating for crime victims in civil and criminal cases. As part of my practice, I often assist crime victims in asserting their constitutional and statutory rights to restitution and their need for a compensatory fine under ORS 137.101. *See* ORS 137.013.

House Bill 3825 would reduce the time compensatory fines for victims are collectible from a criminal defendant, from 20 years for all crimes to 10 years for felonies and 5 years for misdemeanors. Because compensatory fines are simply fines paid to the victim rather than fines paid to the government,<sup>1</sup> they are part of money judgments that would be affected by HB 3825. Compensatory fines are often imposed in lieu of restitution to avoid the need for proof of dollar-for-dollar losses, although the state must prove some amount of economic damages in order for a court to impose a compensatory fine.

Many crime victims do not pursue financial remedies outside the restitution and compensatory fines available in the criminal case. They make this choice even though they cannot themselves collect the criminal money judgment awarding them restitution or a compensatory fine, because in Oregon (as opposed to every other state), crime victims cannot themselves collect criminal judgments awarding them compensation. ORS 18.048(5) (“A judgment in a criminal action that contains a money award is a judgment in favor of the state and may be enforced only by the state.”). House Bill 3825 would have the effect of limiting one of their financial remedies by reducing the amount of time it is collectible.

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<sup>1</sup> *See* ORS 137.101 (1) (“Whenever the court imposes a fine as penalty for the commission of a crime resulting in injury for which the person injured by the act constituting the crime has a remedy by civil action, unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction, the court may order that the defendant pay any portion of the fine separately to the clerk of the court as compensatory fines in the case. \* \* \*”).ble.

House Bill 3825 is inconsistent with the priority the legislature has historically given to compensatory fines, as evidenced by 2013 legislation that made them the only Level 1 obligations in criminal judgments, meaning they are the financial obligations paid first from money paid by a criminal defendant to the court – even before restitution. ORS 137.149 (“Level I obligations in criminal judgments entered in circuit courts are compensatory fines imposed pursuant to ORS 137.101.”); ORS 137.151 (same in local courts).

While the desire to give convicted defendants a fresh financial start after a period of time is understandable, doing so before they have paid for the financial harm done to their victim is not consistent with the Oregon Constitution’s directive that “a fair balance is struck between the rights of crime victims and the rights of criminal defendants[.]” Or. Const. Art. I, § 42.

I apologize that I am unable to testify at the hearing tomorrow, but I urge this Committee to amend House Bill 3825 before passage to avoid reducing the time compensatory fines can be collected from criminal defendants.