

House Bill 2222

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

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 **as introduced**.

Provides that Department of Justice has lien upon certain judgments, settlements and compromises obtained by person who received award of compensation from department, or on whose behalf compensation was paid by department, for compensable crime.

A BILL FOR AN ACT

1
2 Relating to crime victims' assistance; creating new provisions; amending ORS 147.245; and repealing
3 ORS 147.355.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 9 of this 2005 Act are added to and made a part of ORS 147.005**
6 **to 147.367.**

7 **SECTION 2. As used in sections 2 to 9 of this 2005 Act:**

8 (1) "Action" means an action, suit or proceeding.

9 (2) "Assistance" means compensation paid by the Department of Justice under ORS
10 147.005 to 147.367 to or on behalf of an applicant or recipient.

11 (3) "Claim" means a claim of an applicant or recipient for damages for injuries against
12 an assailant or any other person or entity alleged to be liable for the injury constituting the
13 basis for the claim.

14 (4) "Compromise" means a compromise between an applicant or recipient and an
15 assailant or any other person or entity against whom the applicant or recipient has a claim.

16 (5) "Judgment" means a judgment in an action brought by an applicant or recipient to
17 enforce the claim of the applicant or recipient.

18 (6) "Recipient" means a person who has received assistance.

19 (7) "Settlement" means a settlement between an applicant or recipient and an assailant
20 or any other person or entity against whom the applicant or recipient has a claim.

21 **SECTION 3. An applicant or recipient shall provide written notice to the Department of**
22 **Justice when making a claim or bringing an action to enforce a claim for injuries that**
23 **formed the basis for assistance. The notice must include the name and address of the**
24 **assailant and of any other person or entity against whom the claim is made or action is**
25 **brought. If the claim is made or the action is brought against a corporation, the notice must**
26 **contain the address of the corporation's principal place of business. If the applicant or re-**
27 **recipient is a minor, the parents, legal guardian or foster parent of the applicant or recipient**
28 **shall give the notice required by this section.**

29 **SECTION 4. The Department of Justice has a lien upon the amount of a judgment in fa-**
30 **vor of the applicant or recipient and upon any amount payable to the applicant or recipient**

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 under a settlement or compromise for all assistance from the date of the injury that forms
2 the basis of the assistance to the date of the satisfaction of the judgment or final payment
3 under the settlement or compromise.

4 **SECTION 5.** In order to perfect a lien under section 4 of this 2005 Act, the Department
5 of Justice shall do all of the following:

6 (1) Upon receiving notice under section 3 of this 2005 Act, record a notice of lien in the
7 County Clerk Lien Record of the county in which the person against whom the claim is made
8 or action is brought resides. If the claim or action is against a corporation, the department
9 shall record the notice of lien in the County Clerk Lien Record of the county in which the
10 corporation has its principal place of business. If the claim or action is against a public body,
11 as defined in ORS 174.109, the department shall record the notice of lien in the County Clerk
12 Lien Record of the county in which the public body has its main office.

13 (2) Prior to the date of the satisfaction of the judgment or final payment under a settle-
14 ment or compromise, send a certified copy of the notice of lien by registered or certified
15 mail, return receipt requested, to the person or entity against whom the claim is made or
16 action is brought.

17 **SECTION 6.** The form of the notice of lien required by section 5 of this 2005 Act shall
18 be substantially as follows:

19 _____
20
21 Notice is given by this form that the Department of Justice has provided assistance to
22 _____, a person who was injured on or about the ____ day of _____ in the
23 city of _____ and State of _____, and the Department of Justice asserts a lien to
24 the extent provided in section 4 of this 2005 Act for the amount of the assistance upon any
25 amount due and owing _____ (name of injured person) under a judgment, settlement
26 or compromise from _____ alleged to have caused such injuries and from any other
27 person or entity liable for the injury or obligated to compensate the injured person on ac-
28 count of such injuries.

29 Department of Justice
30 by _____,
31 Attorney General or designee.
32

33 State of Oregon,)
34) ss.
35 County of _____)

36 I, _____, being first duly sworn on oath say: That I am the Attorney
37 General or designee; that I have read the foregoing notice of lien and know the contents of
38 the notice of lien and believe the contents to be true.

39 _____
40 Subscribed and sworn to before me this ____ day of _____, _____.
41 _____, Notary Public.
42 _____

43
44 **SECTION 7.** Immediately after a judgment has been rendered in favor of an applicant or
45 recipient or a settlement or compromise has been agreed upon, the person or entity bound

1 by the judgment, settlement or compromise shall provide written notice to the Department
2 of Justice of the amount of the judgment, settlement or compromise. After receiving the
3 notice, the department shall send a statement of the amount of its lien to the person or
4 entity by registered or certified mail, return receipt requested.

5 **SECTION 8.** After a notice of lien is recorded under section 5 of this 2005 Act, a person
6 or entity that makes a payment to the applicant or recipient or to the heirs, personal rep-
7 resentatives, assigns or attorneys of the applicant or recipient under a judgment, settlement
8 or compromise without first having paid to the Department of Justice the amount of the
9 department's lien is liable to the State of Oregon for the use and benefit of the department
10 for a period of 180 days after the date of the payment for the amount of the payment to the
11 extent that the lien attached to the payment under section 4 of this 2005 Act.

12 **SECTION 9.** The Department of Justice has a cause of action against an applicant or
13 recipient who fails to give the notice required by section 3 of this 2005 Act for amounts re-
14 ceived by the applicant or recipient pursuant to a judgment, settlement or compromise to
15 the extent that the department would have had a lien under section 4 of this 2005 Act upon
16 the amounts had the notice been given.

17 **SECTION 10.** ORS 147.245 is amended to read:

18 147.245. (1) Any moneys recovered by the Department of Justice under ORS 147.345 and
19 [147.355] **sections 2 to 9 of this 2005 Act** shall be credited to the Criminal Injuries Compensation
20 Account.

21 (2) Any gifts, contributions, grants or federal funds specifically given to the department for the
22 benefit of victims of crimes shall be credited to the Criminal Injuries Compensation Account.

23 **SECTION 11.** ORS 147.355 is repealed.
24
