

House Bill 3287

Sponsored by COMMITTEE ON JUDICIARY (at the request of Attorney General Ellen F. Rosenblum)

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**.

Requires party in post-conviction relief proceeding to disclose witness information to opposing party at least 90 days prior to hearing.

A BILL FOR AN ACT

1
2 Relating to post-conviction relief.

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

4 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 138.510 to**
5 **138.680.**

6 **SECTION 2. (1) In any proceeding for post-conviction relief pursuant to ORS 138.510 to**
7 **138.680, a party shall provide to the other party, upon written request of the other party or**
8 **an order of the court, the identity of and, except as provided in subsection (6) of this section,**
9 **the contact information for any person the party may call as a witness.**

10 **(2) Unless otherwise ordered by the court, the disclosure required by subsection (1) of**
11 **this section concerning any witness that may be qualified as an expert and providing evi-**
12 **dence described in ORS 40.410, 40.415 or 40.420 must be accompanied by a written report that**
13 **is prepared and signed by the witness. The report must contain:**

14 **(a) A complete statement of all opinions the witness intends to assert as an expert wit-**
15 **ness and the basis for and reasoning behind the opinions;**

16 **(b) The data or other information considered by the witness in forming the opinions;**

17 **(c) Any exhibits that will be used to summarize or support the opinions;**

18 **(d) The witness's qualifications, including a list of all publications written by the witness**
19 **within the previous 10 years;**

20 **(e) A list of all other cases in which the witness testified as an expert during trial or by**
21 **deposition within the previous four years; and**

22 **(f) The amount of compensation the witness was paid for consultation and testimony in**
23 **the proceeding.**

24 **(3) Unless the court orders otherwise, the disclosures required by subsections (1) and (2)**
25 **of this section must be made:**

26 **(a) At least 90 days before hearing on the issues raised; or**

27 **(b) At least 14 days before hearing on the issues raised if the evidence disclosed is in-**
28 **tended solely to contradict or rebut evidence on the same subject matter disclosed by the**
29 **other party.**

30 **(4) A party shall supplement the disclosures required under subsections (1) and (2) of this**
31 **section at least 45 days before the hearing if the party:**

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 **(a) Learns that the information disclosed is incomplete or incorrect in any material re-**
2 **spect; or**

3 **(b) Decides to call a witness who was not previously identified.**

4 **(5) Upon being apprised of any breach of the duty imposed under subsections (1) and (2)**
5 **of this section, and after taking into account the reason, if any, for the breach and the**
6 **prejudice, if any, to the other party, the court may grant a continuance, refuse to permit a**
7 **witness not properly disclosed from testifying, refuse to receive in evidence the material not**
8 **disclosed, impose costs incurred by the other party as a result of the breach or enter such**
9 **other order as the court considers appropriate.**

10 **(6) Unless ordered by the court, the defendant shall not disclose to the petitioner any**
11 **personal identifiers, as defined in ORS 135.815, of the victim or any witness other than an**
12 **expert witness.**

13 **(7) Upon the request of either party, the court may enter a protective order as provided**
14 **in ORS 135.873.**

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