

# Senate Bill 291

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## 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 that grand jury proceedings be on record.

## A BILL FOR AN ACT

1  
2 Relating to grand juries; creating new provisions; and amending ORS 132.090.

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

4 **SECTION 1.** ORS 132.090 is amended to read:

5 132.090. (1) Except as provided in subsections (2) and (3) of this section, no person other than  
6 the district attorney or a witness actually under examination shall be present during the sittings  
7 of the grand jury.

8 (2)(a) [*Upon a motion filed by the district attorney in the circuit court,*] The circuit judge [*may*]  
9 **shall** appoint [*a reporter*] **an official** who shall attend the sittings of the grand jury to take and  
10 report, **by electronic means in the manner provided by section 2 of this 2007 Act**, the testimony  
11 in any matters pending before the grand jury[,] and may appoint a parent, guardian or other ap-  
12 propriate person 18 years of age or older to accompany any child 12 years of age or younger, or any  
13 person with mental retardation, during an appearance before the grand jury. The circuit judge, upon  
14 the district attorney's showing to the court that it is necessary for the proper examination of a  
15 witness appearing before the grand jury, may appoint a guard, medical or other special attendant  
16 or nurse, who shall be present in the grand jury room and shall attend such sittings.

17 **(b) As used in this subsection, "mental retardation" has the meaning given that term in**  
18 **ORS 427.005. Mental retardation may be shown by:**

19 **(A) Documentary evidence of intellectual functions; or**

20 **(B) The affidavit of a qualified person familiar with the person with mental retardation.**

21 **As used in this subparagraph, "qualified person" includes, but is not limited to, a teacher,**  
22 **therapist or physician.**

23 (3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-  
24 terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-  
25 ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a  
26 certified interpreter is not available and that the person designated by the district attorney is a  
27 qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may  
28 be present in the grand jury room and attend the sittings of the grand jury.

29 (4) No person other than members of the grand jury shall be present when the grand jury is  
30 deliberating or voting upon a matter before it.

31 [*(5) As used in this section, "mental retardation" has the meaning given that term in ORS 427.005.*]

**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 *Mental retardation may be shown by attaching to the motion of the district attorney:]*

2 *[(a) Documentary evidence of intellectual functioning; or]*

3 *[(b) The affidavit of a qualified person familiar with the person with mental retardation. "Qualified*  
4 *person" includes, but is not limited to, a teacher, therapist or physician.]*

5 **SECTION 2. (1) Proceedings of a grand jury must be on record and recorded electron-**  
6 **ically.**

7 **(2) The audio records must be deposited with the clerk or other officer of the court as**  
8 **the court directs.**

9 **(3)(a) If an indictment is returned, a tape or other reproduction of the audio records**  
10 **must be provided to the defendant upon request and payment by the defendant of the costs**  
11 **of the tape or other reproduction of the audio records. A defendant who obtains a copy of**  
12 **the tape or other reproduction of the audio records shall make it available to the district**  
13 **attorney.**

14 **(b) If an indictment is not returned, the person with whom the audio records have been**  
15 **deposited under subsection (2) of this section shall destroy the audio records unless the re-**  
16 **ords are ordered by the court to be preserved for good cause shown.**

17 **(4)(a) The requirements of this section apply to all proceedings before the grand jury,**  
18 **including but not limited to the charge by the court, to all later communications between the**  
19 **court and the grand jury, to all comments, statements or communications by the district**  
20 **attorney or any other person to the grand jury, and to the questioning and testimony of all**  
21 **witnesses.**

22 **(b) The requirements of this section do not apply to a grand jury's secret deliberations,**  
23 **to the voting of the grand jury or to the consultations between witnesses and their attor-**  
24 **neys.**

25 **SECTION 3. Section 2 of this 2007 Act and the amendments to ORS 132.090 by section 1**  
26 **of this 2007 Act apply to proceedings before a grand jury that commence on or after the ef-**  
27 **fective date of this 2007 Act.**

28