

**Enrolled**  
**House Bill 2333**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon District Attorneys' Association)

CHAPTER .....

AN ACT

Relating to authentication of financial records by affidavit in grand jury proceedings; amending ORS 132.320.

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

**SECTION 1.** ORS 132.320 is amended to read:

132.320. (1) Except as provided in subsections (2) to [(10)] (11) of this section, in the investigation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than such as might be given on the trial of the person charged with the crime in question.

(2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by such person in connection with a case which is the subject of a grand jury proceeding, shall, when certified by such person as a report made by such person or as a true copy thereof, be received in evidence in the grand jury proceeding.

(3) An affidavit of a witness who is unable to appear before the grand jury shall be received in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding judge for the judicial district in which the grand jury is sitting authorizes such receipt after good cause has been shown for the witness' inability to appear. An affidavit taken in another state or territory of the United States, the District of Columbia or in a foreign country must be authenticated as provided in ORS 194.505 to 194.575 before it can be used in this state.

(4) A grand jury that is investigating a charge of criminal driving while suspended or revoked under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of a report of the peace officer concerning the peace officer's investigation of the violation of ORS 811.182 by the defendant.

(5) A grand jury may receive testimony of a witness by means of simultaneous television transmission allowing the grand jury and district attorney to observe and communicate with the witness and the witness to observe and communicate with the grand jury and the district attorney.

(6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the defendant failed to appear as required by law and setting forth facts sufficient to support that conclusion.

(7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence through the testimony of one peace officer involved in the criminal investigation under grand jury inquiry information from an official report of another peace officer involved in the same criminal

investigation concerning the other peace officer's investigation of the matter before the grand jury. The statement of a person suspected of committing an offense or inadmissible hearsay of persons other than the peace officer who compiled the official report may not be presented to a grand jury under this paragraph.

(b) If the official report contains evidence other than chain of custody, venue or the name of the person suspected of committing an offense, the grand jurors must be notified that the evidence is being submitted by report and that the peace officer who compiled the report will be made available for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace officer under this paragraph, the peace officer may present sworn testimony by telephone if requiring the peace officer's presence before the grand jury would constitute an undue hardship on the peace officer or the agency that employs or utilizes the peace officer.

(8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS 181.599 may receive in evidence certified copies of the form required by ORS 181.603 (2) and sex offender registration forms and an affidavit of a representative of the Oregon State Police, as keepers of the state's sex offender registration records, certifying that the certified copies of the forms constitute the complete record for the defendant.

(9) The grand jury is not bound to hear evidence for the defendant, but it shall weigh all the evidence submitted to it; and when it believes that other evidence within its reach will explain away the charge, it should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

(10) A grand jury that is investigating a charge of driving while under the influence of intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer regarding any or all of the following:

(a) Whether the defendant was driving.

(b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

(c) The administration of tests under any provision of ORS chapter 813 and the results of such tests.

(d) The officer's observations of physical or mental impairment of the defendant.

**(11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial institution for the purpose of authenticating records of the financial institution.**

**(b) As used in this subsection, "financial institution" means a financial institution as defined in ORS 706.008, an entity that regularly issues, processes or services credit cards or any other comparable entity that regularly produces financial records.**

**Passed by House April 8, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 22, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State