

House Bill 2333

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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**.

Authorizes grand jury to receive affidavit from financial company authenticating records of financial company.

A BILL FOR AN ACT

1
2 Relating to authentication of financial records by affidavit in grand jury proceedings; amending ORS
3 132.320.

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

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

6 132.320. (1) Except as provided in subsections (2) to ~~[(10)]~~ **(11)** of this section, in the investi-
7 gation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than
8 such as might be given on the trial of the person charged with the crime in question.

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

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

21 (4) A grand jury that is investigating a charge of criminal driving while suspended or revoked
22 under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of
23 a report of the peace officer concerning the peace officer's investigation of the violation of ORS
24 811.182 by the defendant.

25 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-
26 mission allowing the grand jury and district attorney to observe and communicate with the witness
27 and the witness to observe and communicate with the grand jury and the district attorney.

28 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,
29 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-
30 fendant failed to appear as required by law and setting forth facts sufficient to support that con-
31 clusion.

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 (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence
 2 through the testimony of one peace officer involved in the criminal investigation under grand jury
 3 inquiry information from an official report of another peace officer involved in the same criminal
 4 investigation concerning the other peace officer’s investigation of the matter before the grand jury.
 5 The statement of a person suspected of committing an offense or inadmissible hearsay of persons
 6 other than the peace officer who compiled the official report may not be presented to a grand jury
 7 under this paragraph.

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

15 (8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS
 16 181.599 may receive in evidence certified copies of the form required by ORS 181.603 (2) and sex
 17 offender registration forms and an affidavit of a representative of the Oregon State Police, as
 18 keepers of the state’s sex offender registration records, certifying that the certified copies of the
 19 forms constitute the complete record for the defendant.

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

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

- 27 (a) Whether the defendant was driving.
- 28 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.
- 29 (c) The administration of tests under any provision of ORS chapter 813 and the results of such
 30 tests.
- 31 (d) The officer’s observations of physical or mental impairment of the defendant.

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

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

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