

Enrolled
Senate Bill 380

Sponsored by Senator DEVLIN

CHAPTER

AN ACT

Relating to testimony in criminal proceedings; amending ORS 131.045 and 136.420.

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

SECTION 1. ORS 136.420 is amended to read:

136.420. In a criminal action, the testimony of a witness shall be given orally in the presence of the court and jury, except:

(1) In the case of a witness whose testimony is taken by deposition by order of the court in pursuance of the consent of the parties, as provided in ORS 136.080 to 136.100; **or**

(2) As provided in ORS 131.045.

SECTION 2. ORS 131.045 is amended to read:

131.045. (1) As used in this section:

(a) "Criminal proceeding" has the meaning given that term in ORS 131.005.

(b) "Parties" means the State of Oregon and the person being prosecuted.

(c) "Simultaneous electronic transmission" means television, telephone or any other form of electronic communication transmission if the form of transmission allows:

(A) The court and the person making the appearance to communicate with each other during the proceeding;

(B) A defendant who is represented by counsel to consult privately with defense counsel during the proceeding;

(C) The victim to participate in the proceeding to the same extent that the victim is entitled to participate when the person making the appearance is physically present in the court; and

(D) The public to hear and, if the transmission includes a visual image, to see the appearance if the public has a right to hear and see the appearance when the person making the appearance is physically present in the court.

(2) When a statute authorizes or requires a person to make a personal appearance before a court in a criminal proceeding, the person may appear by being physically present in the court or by simultaneous electronic transmission if:

(a) Simultaneous electronic transmission is authorized by court rule under subsection (3) of this section;

(b) Except as otherwise provided by law, the parties in the proceeding and the court agree to appearance by simultaneous electronic transmission; and

(c) Appearance by simultaneous electronic transmission is not specifically prohibited by statute.

(3) In order for a person to appear by simultaneous electronic transmission as provided in this section, court rules must provide for the use of the specific type of simultaneous electronic transmission at the court location and for the type of proceeding in which the person is appearing. Court

rules allowing the use of simultaneous electronic transmission may establish requirements for its use.

[(4) Notwithstanding subsection (2) of this section, a person may not appear before a jury by simultaneous electronic transmission.]

(4) Notwithstanding subsection (2)(b) of this section, a witness in a criminal proceeding may not appear before a jury by simultaneous electronic transmission without the written consent of the parties and the agreement of the court.

(5) This section does not apply to a hearing under ORS 138.510 to 138.680.

Passed by Senate March 20, 2009

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Repassed by Senate May 19, 2009

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

Approved:

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Secretary of Senate

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

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President of Senate

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Governor

Passed by House May 15, 2009

Filed in Office of Secretary of State:

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Speaker of House

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Secretary of State