

Senate Bill 380

Sponsored by Senator DEVLIN

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 testimony of expert witness in criminal trial by simultaneous electronic transmission with written consent of parties.

A BILL FOR AN ACT

1
2 Relating to testimony in criminal proceedings; amending ORS 131.045 and 136.420.

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

4 **SECTION 1.** ORS 136.420 is amended to read:

5 136.420. In a criminal action, the testimony of a witness shall be given orally in the presence
6 of the court and jury, except:

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

9 **(2) As provided in ORS 131.045.**

10 **SECTION 2.** ORS 131.045 is amended to read:

11 131.045. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

2 (3) In order for a person to appear by simultaneous electronic transmission as provided in this
3 section, court rules must provide for the use of the specific type of simultaneous electronic trans-
4 mission at the court location and for the type of proceeding in which the person is appearing. Court
5 rules allowing the use of simultaneous electronic transmission may establish requirements for its
6 use.

7 (4) Notwithstanding subsection (2) of this section **and except as provided in subsection (6)**
8 **of this section**, a person may not appear before a jury by simultaneous electronic transmission.

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

10 (6) **With the written consent of the parties, the court may allow an expert witness in a**
11 **criminal action to provide testimony before a jury by simultaneous electronic transmission.**

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