



DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION

MEMORANDUM

DATE: March 27, 2013

TO: Representative Barker, Chair
House Judiciary Committee, Members

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 3286

RECOMMENDED ACTION

This testimony is presented in support of HB 3286. We recommend that the Committee approve HB 3286 with a do pass recommendation.

BACKGROUND ON HB 3286

- ORS 133.545(5) allows officers to obtain search warrants by providing a sworn oral statement, generally given to a judge telephonically. This allows officers to relay the information necessary to receive a warrant without physically travelling to the location of the judge, an important time and resource savings in rural areas or at times of night when a judge cannot reliably be found at the courthouse.
- Because of the exigent nature of the symptoms of impairment, DUII is the most common area in which telephonic warrants are utilized by law enforcement. When an officer applies for a warrant in this manner, the officer presently drafts the warrant and an affidavit describing the subject of the search and the facts establishing probable cause for the warrant. The officer then makes telephonic contact with the judge.
- The officer reads the proposed warrant and affidavit to the judge and makes any changes required. This conversation is recorded by the officer. After the warrant is authorized and executed, the officer is required to have the conversation with the judge transcribed and submitted into the judicial record alongside the warrant and the recording. The cost of this transcription is born by the law enforcement agency.

HOW HB 3286 WILL CONSERVE LAW ENFORCEMENT RESOURCES

- Requiring officers to transcribe the conversation between the judge and the officer is an unnecessary and expensive step in the telephonic search warrant process. The law already requires the conversation to be memorialized through the recording and submitted with the written warrant.
- Courts currently rely on recordings in every step of the criminal process. In-court criminal proceedings are already routinely digitally recorded and only transcribed in the instance of a legal challenge. The same procedure applies if a telephonic search warrant is challenged, and the recorded conversation between the applying officer and reviewing judge can be transcribed at that time. Most telephonic warrants are never subjected to a judicial challenge and the transcripts thereby generated serve no purpose.
- By eliminating the requirement to create a transcription for every telephonic warrant, agencies will save time and money without jeopardizing the fidelity of the process or quality of the evidence. Because existing law requires recordation of telephonic warrant applications already, no additional resources will be required, only conserved.

THERE IS NO KNOWN FISCAL IMPACT FOR DEPARTMENT OF JUSTICE

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