

D R A F T

SUMMARY

Eliminates transcription requirement for warrants based on sworn oral statements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to warrants; amending ORS 133.545; and declaring an emergency.

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

SECTION 1. ORS 133.545 is amended to read:

133.545. (1) A search warrant may be issued only by a judge. A search warrant issued by a judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except as otherwise provided in subsection (2) of this section, a search warrant issued by a judge of a circuit court may be executed only within the judicial district in which the court is located. A search warrant issued by a justice of the peace may be executed only within the county in which the justice court is located. A search warrant issued by a municipal judge authorized to exercise the powers and perform the duties of a justice of the peace may be executed only in the municipality in which the court is located.

(2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution of a search warrant outside the judicial district in which the court is located, if the judge finds from the application that one or more of the objects of the search relate to an offense committed or triable within the judicial district in which the court is located. If the warrant authorizes the installation or tracking of a mobile tracking device, the officer

1 may track the device in any county to which it is transported.

2 (3) Application for a search warrant may be made only by a district at-
3 torney, a police officer or a special agent employed under ORS 131.805.

4 (4) The application shall consist of a proposed warrant in conformance
5 with ORS 133.565, and shall be supported by one or more affidavits partic-
6 ularly setting forth the facts and circumstances tending to show that the
7 objects of the search are in the places, or in the possession of the individ-
8 uals, to be searched. If an affidavit is based in whole or in part on hearsay,
9 the affiant shall set forth facts bearing on any unnamed informant's reli-
10 ability and shall disclose, as far as possible, the means by which the infor-
11 mation was obtained.

12 (5) Instead of the written affidavit described in subsection (4) of this
13 section, the judge may take an oral statement under oath. The oral statement
14 shall be recorded [*and transcribed*]. [*The transcribed statement is an affidavit*
15 *for the purposes of this section.*] In such cases, the recording of the sworn oral
16 statement [*and the transcribed statement*] shall be certified by the judge re-
17 ceiving it and shall be retained as a part of the record of proceedings for the
18 issuance of the warrant.

19 (6)(a) In addition to the procedure set out in subsection (5) of this section,
20 the proposed warrant and the affidavit may be sent to the court by facsimile
21 transmission or any similar electronic transmission that delivers a complete
22 printable image of the signed affidavit and proposed warrant. The affidavit
23 may have a notarized acknowledgment, or the affiant may swear to the affi-
24 davit by telephone. A judge administering an oath telephonically under this
25 subsection must execute a declaration that recites the manner and time of
26 the oath's administration. The declaration must be filed with the return.

27 (b) When a court issues a warrant upon an application made under para-
28 graph (a) of this subsection:

29 (A) The court may transmit the signed warrant to the person making ap-
30 plication under subsection (3) of this section by means of facsimile trans-
31 mission or similar electronic transmission, as described in paragraph (a) of

1 this subsection. The court shall file the original signed warrant and a
2 printed image of the application with the return.

3 (B) The person making application shall deliver the original signed affi-
4 davit to the court with the return. If the affiant swore to the affidavit by
5 telephone, the affiant must so note next to the affiant's signature on the af-
6 fidavit.

7 **SECTION 2. The amendments to ORS 133.545 by section 1 of this**
8 **2013 Act apply only to warrants issued on or after the effective date**
9 **of this 2013 Act.**

10 **SECTION 3. This 2013 Act being necessary for the immediate pres-**
11 **ervation of the public peace, health and safety, an emergency is de-**
12 **clared to exist, and this 2013 Act takes effect on its passage.**

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