

A-Engrossed
Senate Bill 780

Ordered by the Senate April 22
Including Senate Amendments dated April 22

Sponsored by Senator DINGFELDER; Senator SHIELDS, Representatives FREDERICK, GALLEGOS, GREENLICK, KENY-GUYER

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.

Requires grand jury proceeding involving use of deadly force by police officer to be recorded[, *transcribed and made available to public*]. **Requires district attorney to provide copy of recording or transcript to defendant if indictment is found. Authorizes release of recording or transcript to member of public in certain circumstances. Allows district attorney to request permission from court to redact portions of recording or transcript.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to grand juries; creating new provisions; amending ORS 132.090 and 132.430; and declaring
3 an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 132.310 to**
6 **132.390.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **"Certified shorthand reporter" has the meaning given that term in ORS 8.415.**

9 (b) **"Police officer" means a police officer or reserve officer, as those terms are defined**
10 **in ORS 181.610.**

11 (2)(a) **A proceeding before a grand jury must be on the record and recorded by electronic**
12 **means or by a certified shorthand reporter if the proceeding has been convened to examine**
13 **the use of deadly force by a police officer that resulted in the death of a person. When a**
14 **proceeding is required to be recorded under this subsection, the district attorney shall en-**
15 **sure that the questioning and testimony of all witnesses are recorded by electronic means**
16 **or by a certified shorthand reporter.**

17 (b) **Notwithstanding paragraph (a) of this subsection, information that reveals the iden-**
18 **tity of a grand juror and the deliberations of the grand jury may not be recorded by elec-**
19 **tronic means or by a certified shorthand reporter.**

20 (3) **If a certified shorthand reporter records a grand jury proceeding under subsection (2)**
21 **of this section, the reporter shall provide a certified transcript of the proceeding to the dis-**
22 **trict attorney no later than 10 days after the proceeding. The district attorney shall grant**
23 **an extension of the 10-day period upon the showing of good cause.**

24 (4) **The failure to record, by electronic means or by certified shorthand reporter, all of**
25 **the grand jury proceeding required to be on the record and recorded under subsection (2) of**

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 **this section does not affect the validity of any indictment or prosecution that arises from the**
2 **proceeding.**

3 **(5)(a) If a grand jury proceeding described in this section results in the grand jury finding**
4 **an indictment and indorsing it “a true bill,” the district attorney shall provide a copy of the**
5 **recording or the certified transcript of the grand jury proceeding to the defendant.**

6 **(b) Notwithstanding paragraph (a) of this subsection, the district attorney may request**
7 **permission from the court to redact portions of the recording or certified transcript before**
8 **providing the recording or certified transcript to the defendant. The district attorney shall**
9 **describe the portions to be redacted and provide an explanation for the redaction to the**
10 **court. If the court finds that there is good cause for the redaction, the district attorney shall**
11 **provide a redacted copy of the recording or certified transcript to the defendant.**

12 **(6)(a) A person may file a motion with the court to obtain a copy of the recording or**
13 **certified transcript of the grand jury proceeding described in this section if:**

14 **(A) The grand jury did not find the indictment and indorsed it “not a true bill”; or**

15 **(B) The grand jury found the indictment and indorsed it “a true bill” and a judgment has**
16 **been entered in the criminal action.**

17 **(b) The court may grant the motion filed as described in paragraph (a) of this subsection**
18 **if the court finds that providing a copy of the recording or certified transcript to the person**
19 **is in the public interest. If the court grants the motion, the district attorney shall provide**
20 **a copy of the recording or certified transcript to the court to provide to the person.**

21 **(c) The district attorney may object to a motion filed as described in paragraph (a) of this**
22 **subsection or may request permission from the court to redact portions of the recording or**
23 **certified transcript before providing the recording or certified transcript to the person. The**
24 **district attorney shall describe the portions to be redacted and provide an explanation for the**
25 **redaction to the court. If the court finds that there is good cause for the redaction, the**
26 **district attorney shall provide a redacted copy of the recording or certified transcript to the**
27 **court to provide to the person.**

28 **SECTION 3.** ORS 132.090 is amended to read:

29 132.090. (1) Except as provided in subsections (2) and (3) of this section **and section 2 of this**
30 **2013 Act**, no person other than the district attorney or a witness actually under examination shall
31 be present during the sittings of the grand jury.

32 **(2) If not otherwise required under section 2 of this 2013 Act**, upon a motion filed by the
33 district attorney in the circuit court, the circuit judge may appoint a reporter who shall attend the
34 sittings of the grand jury to take and report the testimony in any matters pending before the grand
35 jury, and may appoint a parent, guardian or other appropriate person 18 years of age or older to
36 accompany any child 12 years of age or younger, or any person with mental retardation, during an
37 appearance before the grand jury. The circuit judge, upon the district attorney’s showing to the
38 court that it is necessary for the proper examination of a witness appearing before the grand jury,
39 may appoint a guard, medical or other special attendant or nurse, who shall be present in the grand
40 jury room and shall attend such sittings.

41 **(3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-**
42 **terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-**
43 **ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a**
44 **certified interpreter is not available and that the person designated by the district attorney is a**
45 **qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may**

1 be present in the grand jury room and attend the sittings of the grand jury.

2 (4) No person other than members of the grand jury shall be present when the grand jury is
3 deliberating or voting upon a matter before it.

4 (5) As used in this section, "mental retardation" has the meaning given that term in ORS
5 430.010. Mental retardation may be shown by attaching to the motion of the district attorney:

6 (a) Documentary evidence of intellectual functioning; or

7 (b) The affidavit of a qualified person familiar with the person with mental retardation. "Quali-
8 fied person" includes, but is not limited to, a teacher, therapist or physician.

9 **SECTION 4.** ORS 132.430 is amended to read:

10 132.430. (1) When a person has been held to answer a criminal charge and the indictment in
11 relation thereto is not found "a true bill," it must be indorsed "not a true bill," which indorsement
12 must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain
13 a public record. **Except for the recording or transcript required by section 2 of this 2013 Act,**
14 in the case of an indictment not found "a true bill" against a person not so held, the same, together
15 with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

16 (2) When an indictment indorsed "not a true bill" has been filed with the clerk of the court, the
17 effect thereof is to dismiss the charge; and the same cannot be again submitted to or inquired of by
18 the grand jury unless the court so orders.

19 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
21 **on its passage.**

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