

**PROPOSED AMENDMENTS TO
SENATE BILL 1583**

1 On page 1 of the printed bill, line 9, after “(3)” insert “(a)”.

2 After line 12, insert:

3 “(b) ‘Location information’ does not include information concerning the
4 location of a cellular telephone or other electronic communication device if
5 the information is located within a document that is in plain view of an
6 employee of a public body in a lawful location without the aid of a vision
7 enhancing or electronic device.”.

8 On page 2, line 8, delete “any circuit court judge” and insert “a judge”.

9 Delete line 9 and insert “a public body. A warrant issued by a judge of
10 the Supreme Court or the Court of Appeals may be executed anywhere in the
11 state. A warrant issued by a judge of a circuit court may be executed only
12 within the judicial district in which the court is located, except that a cir-
13 cuit court judge may authorize execution of a warrant outside the judicial
14 district in which the court is located if the judge finds from the application
15 that the location information relates to an offense committed or triable
16 within the judicial district in which the court is located. A warrant issued
17 by a justice of the peace may be executed only within the county in which
18 the justice court is located. A warrant issued by a municipal judge author-
19 ized to exercise the powers and perform the duties of a justice of the peace
20 may be executed only in the municipality in which the court is located. The
21 application and the warrant must include:”.

22 In line 13, delete the semicolon and insert “and to exclude location in-

1 formation that is not relevant to the reason for the request; and”.

2 In line 16, after “crime” insert “or civil offense”.

3 In line 18, after “crime” delete the rest of the line and lines 19 and 20
4 and insert “or civil offense.”.

5 In line 27, after “information” insert “or reports the telephone or device
6 as stolen”.

7 Delete lines 28 and 29 and insert:

8 “(c) Exigent circumstances exist and there is probable cause to believe
9 that the owner or user of the telephone or device:

10 “(A) Is engaged in organized crime as that term is defined in ORS 180.600;
11 or

12 “(B) Is conspiring to commit a crime constituting a threat to national
13 security.”.

14 After line 33, insert:

15 “(f) The public body operates a correctional facility, the location infor-
16 mation is necessary for the public body to prevent or locate contraband
17 within the correctional facility and its premises and the location information
18 sought is confined to the correctional facility and its premises.”.

19 In line 34, after “(4)(a)” insert “Except as provided in paragraphs (b) and
20 (c) of this subsection,”.

21 On page 3, line 1, after the period insert “The court may grant such a
22 request if the court determines that there is reason to believe that notifica-
23 tion of the existence of the warrant will result in:

24 “(A) Imminent danger of death or serious physical injury;

25 “(B) Flight from prosecution;

26 “(C) Destruction of or tampering with evidence;

27 “(D) Intimidation of or tampering with a potential witness;

28 “(E) A substantial risk of hindering or interfering with an ongoing in-
29 vestigation; or

30 “(F) Undue delay of trial.”.

1 After line 7, insert:

2 “(6) If a public body relies on the warrant exception described in sub-
3 section (3)(c) of this section, the public body must make application for a
4 warrant within 48 hours of the exigent circumstances and probable cause
5 arising. If the public body does not make application for a warrant within
6 48 hours, or if the warrant application is denied, any location obtained shall
7 be in violation of this section.”.

8 In line 10, delete “any circuit court judge” and insert “a judge”.

9 Delete line 11 and insert “written application by a public body. A warrant
10 issued by a judge of the Supreme Court or the Court of Appeals may be ex-
11 ecuted anywhere in the state. A warrant issued by a judge of a circuit court
12 may be executed only within the judicial district in which the court is lo-
13 cated, except that a circuit court judge may authorize execution of a warrant
14 outside the judicial district in which the court is located if the judge finds
15 from the application that the personal electronic data relates to an offense
16 committed or triable within the judicial district in which the court is lo-
17 cated. A warrant issued by a justice of the peace may be executed only
18 within the county in which the justice court is located. A warrant issued by
19 a municipal judge authorized to exercise the powers and perform the duties
20 of a justice of the peace may be executed only in the municipality in which
21 the court is located. The application and the warrant must include:”.

22 In line 14, after “data” insert “and to exclude personal electronic data
23 that is not relevant to the reason for the request”.

24 In line 17, after “crime” insert “or civil offense”.

25 In line 18, after “crime” insert “or civil offense”.

26 In line 20, after “crime” insert “or civil offense”.

27 Delete lines 28 and 29 and insert:

28 “(c) Exigent circumstances exist and there is probable cause to believe
29 that person who is the subject of the personal electronic data:

30 “(A) Is engaged in organized crime as that term is defined in ORS 180.600;

1 or

2 “(B) Is conspiring to commit a crime constituting a threat to national
3 security.”.

4 In line 34, after “(4)(a)” insert “Except as provided in paragraph (b) of
5 this section,”.

6 In line 43, after the period insert “The court may grant such a request if
7 the court determines that there is reason to believe that notification of the
8 existence of the warrant will result in:

9 “(A) Imminent danger of death or serious physical injury;

10 “(B) Flight from prosecution;

11 “(C) Destruction of or tampering with evidence;

12 “(D) Intimidation of or tampering with a potential witness;

13 “(E) A substantial risk of hindering or interfering with an ongoing in-
14 vestigation; or

15 “(F) Undue delay of trial.”.

16 On page 4, after line 4, insert:

17 “(6) If a public body relies on the warrant exception described in sub-
18 section (3)(c) of this section, the public body must make application for a
19 warrant within 48 hours of the exigent circumstances and probable cause
20 arising. If the public body does not make application for a warrant within
21 48 hours, or if the warrant application is denied, any personal electronic data
22 obtained shall be in violation of this section.

23 **“SECTION 4. Sections 1 to 3 of this 2014 Act do not prevent an agent**
24 **of the Department of Justice from obtaining location information or**
25 **personal electronic data in accordance with a subpoena process and in**
26 **compliance with the Electronic Communications Privacy Act if the**
27 **agent has reason to believe the owner or user of the cellular telephone**
28 **or device or the person who is the subject of the personal electronic**
29 **data is engaged in a violation of ORS 163.670, 163.684, 163.686, 163.687,**
30 **163.688 or 163.689.”.**

