

Case of father jailed for 905 days as witness in murder case prompts legislation

By [Emily E. Smith | The Oregonian/OregonLive](#)
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The case a father and son [jailed for two years](#) to secure their testimony in an Oregon murder trial has prompted legislation to prevent any witness from enduring the same fate.

Lawmakers this week passed [House Bill 2316](#) authorizing a judge to order a pretrial deposition for material witnesses. Next, it heads to the Senate for approval.

With this bill, said [Rep. Jeff Barker](#), D-Aloha, legislators hope pretrial depositions – which would emulate live courtroom testimony – would allow a witness to go free instead of waiting in jail to appear at trial.

"Hopefully, this would allow them to do it quickly and let them out," he said.

A material witness is someone with information about a case who's unlikely to appear at trial. State law allows a material witness to be held in jail without any time limit, but in most cases detention lasts for less than a week.

In rare cases, witnesses are held for much longer.

The bill is inspired by what happened in a recent Hillsboro murder case: Benito Vasquez-Hernandez and his son, Moises Vasquez-Santiago, were held to testify against one of his other sons, defendant Eloy Vasquez-Santiago. The witnesses spent two years in jail before they were brought to court for pretrial depositions.

Their video-recorded depositions took place in September after all of the lawyers on the case agreed to it. Moises Vasquez-Santiago, who suffered a psychotic break in jail and was diagnosed with schizophrenia, [testified then](#) and was released after 727 days in custody.

But Benito Vasquez-Hernandez [insisted he was innocent](#) and wouldn't answer questions. His attorney said Vasquez-Hernandez didn't understand court procedure well enough to comply.

The 58-year-old father remained in lockup for another six months until earlier this spring, when he came to court on his 905th day in custody and testified that he knew nothing about the case. The judge then [ordered his release](#). Legal experts knew of no other witness jailed for so long.

Barker, who chairs the Judiciary Committee, said after The Oregonian/OregonLive covered the case in March, he heard from many people wanting a legislative solution.

Then, Washington County Circuit Judge Don Letourneau, who presided over the Hillsboro case, contacted him to suggest a fix.

"If a judge had discretion to require perpetuation depositions in material witness cases, lengthy detentions of material witnesses could be avoided in the future," the judge wrote in a letter to Barker.

The lawmaker went to work drafting Letourneau's recommendation into HB 2316.

The bill would give a judge the authority to order a pretrial deposition for a material witness. In the Hillsboro case, a pretrial deposition occurred only with the agreement of all the attorneys involved, about 10 months after Vasquez-Hernandez's lawyer requested it.

Under the proposed law, either a prosecutor or defense attorney could petition the judge to order a deposition, or the judge could order it without a request.

The bill wouldn't require taking a deposition or limit the length of time a witness could be held. But if petitioned, the judge would have 30 days to decide whether to order a deposition.

"I think this will solve the problem," Barker said.

In the Hillsboro case, Eloy Vasquez-Santiago **was found guilty** and sentenced to prison for the murder of 55-year-old **Maria Bolanos-Rivera**, a mother of six who worked in the local berry fields.