

SENATE AMENDMENTS TO SENATE BILL 825

By COMMITTEE ON JUDICIARY

April 15

1 On page 1 of the printed bill, delete lines 4 through 31 and delete page 2 and insert:

2 “**SECTION 1.** ORS 132.320 is amended to read:

3 “132.320. (1) Except as provided in subsections (2) to [(11)] **(12)** of this section, in the investi-
4 gation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than
5 such as might be given on the trial of the person charged with the crime in question.

6 “(2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,
7 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-
8 pert or technician in some comparable scientific or professional field, concerning the results of an
9 examination, comparison or test performed by such person in connection with a case which is the
10 subject of a grand jury proceeding, shall, when certified by such person as a report made by such
11 person or as a true copy thereof, be received in evidence in the grand jury proceeding.

12 “(3) An affidavit of a witness who is unable to appear before the grand jury shall be received
13 in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding
14 judge for the judicial district in which the grand jury is sitting authorizes the receipt after good
15 cause has been shown for the witness’ inability to appear. An affidavit taken in another state or
16 territory of the United States, the District of Columbia or in a foreign country must be
17 authenticated as provided in ORS chapter 194 before it can be used in this state.

18 “(4) A grand jury that is investigating a charge of criminal driving while suspended or revoked
19 under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of
20 a report of the peace officer concerning the peace officer’s investigation of the violation of ORS
21 811.182 by the defendant.

22 “(5) A grand jury may receive testimony of a witness by means of simultaneous television
23 transmission allowing the grand jury and district attorney to observe and communicate with the
24 witness and the witness to observe and communicate with the grand jury and the district attorney.

25 “(6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,
26 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-
27 fendant failed to appear as required by law and setting forth facts sufficient to support that con-
28 clusion.

29 “(7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence
30 through the testimony of one peace officer involved in the criminal investigation under grand jury
31 inquiry information from an official report of another peace officer involved in the same criminal
32 investigation concerning the other peace officer’s investigation of the matter before the grand jury.
33 The statement of a person suspected of committing an offense or inadmissible hearsay of persons
34 other than the peace officer who compiled the official report may not be presented to a grand jury
35 under this paragraph.

1 “(b) If the official report contains evidence other than chain of custody, venue or the name of
2 the person suspected of committing an offense, the grand jurors must be notified that the evidence
3 is being submitted by report and that the peace officer who compiled the report will be made
4 available for testimony at the request of the grand jury. When a grand jury requests the testimony
5 of a peace officer under this paragraph, the peace officer may present sworn testimony by telephone
6 if requiring the peace officer’s presence before the grand jury would constitute an undue hardship
7 on the peace officer or the agency that employs or utilizes the peace officer.

8 “(8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS
9 181.812 may receive in evidence certified copies of the form required by ORS 181.815 (2) and sex
10 offender registration forms and an affidavit of a representative of the Oregon State Police, as
11 keepers of the state’s sex offender registration records, certifying that the certified copies of the
12 forms constitute the complete record for the defendant.

13 “(9) The grand jury [*is not bound to hear evidence for the defendant, but it*] shall weigh all the
14 evidence submitted to it; and when it believes that other evidence within its reach will explain away
15 the charge, it should order such evidence to be produced, and for that purpose may require the
16 district attorney to issue process for the witnesses.

17 “(10) A grand jury that is investigating a charge of driving while under the influence of
18 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-
19 garding any or all of the following:

20 “(a) Whether the defendant was driving.

21 “(b) Whether the defendant took or refused to take tests under any provision of ORS chapter
22 813.

23 “(c) The administration of tests under any provision of ORS chapter 813 and the results of such
24 tests.

25 “(d) The officer’s observations of physical or mental impairment of the defendant.

26 “(11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial in-
27 stitution for the purpose of authenticating records of the financial institution.

28 “(b) As used in this subsection, ‘financial institution’ means a financial institution as defined in
29 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-
30 parable entity that regularly produces financial records.

31 “(12)(a) **A defendant who has been arraigned on an information alleging a felony charge**
32 **that is the subject of a grand jury proceeding and who is represented by an attorney has a**
33 **right to appear before the grand jury as a witness if, prior to the filing of an indictment, the**
34 **defense attorney serves upon the district attorney written notice requesting the appearance.**
35 **The notice shall include an electronic mail address at which the defense attorney may be**
36 **contacted.**

37 “(b) **A district attorney is not obligated to inform a defendant that a grand jury pro-**
38 **ceeding investigating charges against the defendant is pending, in progress or about to occur.**

39 “(c) **Upon receipt of the written notice described in paragraph (a) of this subsection, the**
40 **district attorney shall provide in writing the date, time and location of the defendant’s ap-**
41 **pearance before the grand jury to the defense attorney at the indicated electronic mail ad-**
42 **dress. In the event of a scheduling conflict, the district attorney shall reasonably**
43 **accommodate the schedules of the defendant and the defense attorney if the accommodation**
44 **does not unnecessarily delay the grand jury proceedings for more than five judicial days.**

45 “(d) **When the defendant appears as a witness before the grand jury pursuant to this**

1 subsection, the defendant shall be permitted to give relevant and competent evidence con-
2 cerning the charges under consideration and, after giving evidence, is subject to examination
3 by the district attorney and the grand jury.”.

4 On page 3, delete lines 1 through 9.

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