

**PROPOSED AMENDMENTS TO  
SENATE BILL 825**

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

3 **SECTION 1.** ORS 132.320 is amended to read:

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

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

16 “(3) An affidavit of a witness who is unable to appear before the grand  
17 jury shall be received in evidence in the grand jury proceeding if, upon ap-  
18 plication by the district attorney, the presiding judge for the judicial district  
19 in which the grand jury is sitting authorizes the receipt after good cause has  
20 been shown for the witness’ inability to appear. An affidavit taken in an-  
21 other state or territory of the United States, the District of Columbia or in  
22 a foreign country must be authenticated as provided in ORS chapter 194 be-

1 fore it can be used in this state.

2 “(4) A grand jury that is investigating a charge of criminal driving while  
3 suspended or revoked under ORS 811.182 may receive in evidence an affidavit  
4 of a peace officer with a report or copy of a report of the peace officer con-  
5 cerning the peace officer’s investigation of the violation of ORS 811.182 by  
6 the defendant.

7 “(5) A grand jury may receive testimony of a witness by means of simul-  
8 taneous television transmission allowing the grand jury and district attorney  
9 to observe and communicate with the witness and the witness to observe and  
10 communicate with the grand jury and the district attorney.

11 “(6) A grand jury that is investigating a charge of failure to appear under  
12 ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit  
13 of a court employee certifying that the defendant failed to appear as required  
14 by law and setting forth facts sufficient to support that conclusion.

15 “(7)(a) Except as otherwise provided in this subsection, a grand jury may  
16 receive in evidence through the testimony of one peace officer involved in  
17 the criminal investigation under grand jury inquiry information from an of-  
18 ficial report of another peace officer involved in the same criminal investi-  
19 gation concerning the other peace officer’s investigation of the matter before  
20 the grand jury. The statement of a person suspected of committing an offense  
21 or inadmissible hearsay of persons other than the peace officer who compiled  
22 the official report may not be presented to a grand jury under this para-  
23 graph.

24 “(b) If the official report contains evidence other than chain of custody,  
25 venue or the name of the person suspected of committing an offense, the  
26 grand jurors must be notified that the evidence is being submitted by report  
27 and that the peace officer who compiled the report will be made available  
28 for testimony at the request of the grand jury. When a grand jury requests  
29 the testimony of a peace officer under this paragraph, the peace officer may  
30 present sworn testimony by telephone if requiring the peace officer’s pres-

1   ence before the grand jury would constitute an undue hardship on the peace  
2   officer or the agency that employs or utilizes the peace officer.

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

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

14       “(10) A grand jury that is investigating a charge of driving while under  
15   the influence of intoxicants in violation of ORS 813.010 may receive in evi-  
16   dence an affidavit of a peace officer regarding any or all of the following:

17       “(a) Whether the defendant was driving.

18       “(b) Whether the defendant took or refused to take tests under any pro-  
19   vision of ORS chapter 813.

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

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

24       “(11)(a) A grand jury may receive in evidence an affidavit of a represen-  
25   tative of a financial institution for the purpose of authenticating records of  
26   the financial institution.

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

1       “(12)(a) A defendant who has been arraigned on an information al-  
2       leging a felony charge that is the subject of a grand jury proceeding  
3       and who is represented by an attorney has a right to appear before the  
4       grand jury as a witness if, prior to the filing of an indictment, the  
5       defense attorney serves upon the district attorney written notice re-  
6       questing the appearance. The notice shall include an electronic mail  
7       address at which the defense attorney may be contacted.

8       “(b) A district attorney is not obligated to inform a defendant that  
9       a grand jury proceeding investigating charges against the defendant  
10      is pending, in progress or about to occur.

11      “(c) Upon receipt of the written notice described in paragraph (a)  
12      of this subsection, the district attorney shall provide in writing the  
13      date, time and location of the defendant’s appearance before the grand  
14      jury to the defense attorney at the indicated electronic mail address.  
15      In the event of a scheduling conflict, the district attorney shall rea-  
16      sonably accommodate the schedules of the defendant and the defense  
17      attorney if the accommodation does not unnecessarily delay the grand  
18      jury proceedings for more than five judicial days.

19      “(d) When the defendant appears as a witness before the grand jury  
20      pursuant to this subsection, the defendant shall be permitted to give  
21      relevant and competent evidence concerning the charges under con-  
22      sideration and, after giving evidence, is subject to examination by the  
23      district attorney and the grand jury.”.

24      On page 3, delete lines 1 through 9.

25

---