

Grand jury bill would strip protection for victims

Steve Doell 7:07 p.m. PDT June 24, 2015



(Photo: BRENT DRINKUT/Statesman Journal)

Oregon has long had some of the strongest health record protection laws in the nation, and particularly for medical records in the hands of a government agency.

The Oregon Legislature is now on the verge of ripping those patient protections apart when it comes to the medical records of crime victims. Worse yet, a bill written by criminal defense lawyers, Senate Bill 822, will release information obtained from those records directly to defense lawyers and often to the criminal offenders who caused the victim's physical and psychological injuries.

SB 822 is an attempt to record grand jury proceedings and to release those records to bolster defense trial tactics. It has been drafted by a coalition of criminal defense lawyers who have been trying for years to have grand jury procedures recorded and released.

Currently, and historically, grand jury proceedings have been confidential, and the release of information from grand jury records has been strictly limited to information that would tend to show the defendant is not guilty.

That type of information, under the U.S. Constitution, must always be provided to the defense. Aside from that,

however, grand jury records have been kept secret under the law so as to encourage honest and forthcoming testimony in that body, and to prevent innocent people, who may be accused but never charged, from having their reputations ruined.

Current Oregon medical privacy laws reflect the assumption that medical records subpoenaed to the grand jury will remain secret. Outside grand jury proceedings, the law requires detailed subpoena procedures before litigants can obtain medical information. Those procedures require patient notification and a process for a neutral judge to review and release only that medical information that is relevant to a trial.

SB 822 would overturn these privacy protections for victims of serious violent crimes. Under the proposed legislation, grand juries will obtain medical records on victims, and information from those records will be immediately released to criminal offenders unless the victim, who may not even know the records are being released, can immediately show "substantial and compelling circumstances" to limit the release.

Under SB 822, medical information obtained by grand juries regarding the most intimate and private details from a crime victim's medical file will presumptively be released to the very individuals who caused their injuries, wiping away the protections Oregon law formerly required in criminal procedures. One has to wonder how rape victims will react when information in their medical and psychological records is immediately released to the offender who victimized them, without their being notified and without the review of a neutral magistrate, as is currently required.

It is quite a message from this Legislature to all crime victims and especially to rape victims, isn't it? If you are the victim of a rape, the state will immediately turn over to the rapist private information about your injuries and trauma, even if it is in no way beneficial to the criminal defense. And if you don't like that idea, tough. The heavy burden is now on you to go to court to prevent it.

Steve Doell of Lake Oswego is president of Crime Victims United of Oregon, a victims rights advocacy organization that was founded 32 years ago. He can be reached at sdoell@crimevictimsunited.org.

Read or Share this story: <http://stjr.nl/1NcKp74>

French Terry Track
Pants

Ultimate Fleece
Pants