

**STAFF MEASURE SUMMARY****Senate Committee On Judiciary****Fiscal:** Fiscal impact issued**Revenue:** No Revenue Impact**Action Date:** 02/10/16**Action:** Do Pass With Amendments. Refer To Ways And Means By Prior Reference.  
(Printed A-Eng).**Meeting Dates:** 02/05, 02/09, 02/10**Vote:**

Yeas: 4 - Gelser, Kruse, Prozanski, Rosenbaum

Nays: 1 - Thatcher

**Prepared By:** Channa Newell, Counsel**WHAT THE MEASURE DOES:**

Requires all proceedings before a grand jury be recorded, either through digital means or by certified short hand reporter, if requested. Staggers implementation across the state. Allows attorney or unrepresented defendant to access record or audio transcript. Prohibits audio transcript from otherwise being released if grand jury returns true bill. Provides protections for sensitive information, such as confidential records unrelated to charge, or personal information of grand jurors and witnesses. Allows for protective order to limit access to recording or transcript. Allows use of testimony for impeachment purposes, but identifies three areas in which peace officer may introduce hearsay testimony: if the witness is under 18 years of age, witness has disability preventing communicating or understanding of proceedings, or any other testimony allowed under ORS 40.460. Makes recording or transcript a confidential document and prohibits release under public records request. Becomes operative in certain counties on October 1, 2017. Becomes operative statewide on July 1, 2018. Takes effect 91 days after sine die.

**ISSUES DISCUSSED:**

- Grand jury recordation in other states
- Use of recorded preliminary hearings in several other states
- Protections for witnesses and victim
- Consequences of violating prohibition on sharing or releasing recording
- Need for accountability in grand jury proceedings

**EFFECT OF COMMITTEE AMENDMENT:**

Allows prosecuting attorney access at any time to recording or transcript. Requires prosecuting attorney to make specific request on what information to redact when filing motion for protective order. Modifies procedure for testimony from peace officer in grand jury proceeding to include any statement that, if offered at trial, would be admissible under ORS 40.460, including current domestic violence victim exception. Removes public servant disclosure exception from measure. Changes age for peace officer to testify on behalf of victim from under 15 years of age to under 18 years of age. Removes requirement that court clerks obtain background checks prior to recording grand jury.

**BACKGROUND:**

In the 2015 session, the Legislature considered Senate Bill 822, which would have required recordation of grand jury proceedings. The measure was not enacted in 2015, but a work group met during the interim to discuss improvements and modifications to the prior bill. Senate Bill 1550 A is the result of that effort.

The measure requires all grand jury proceedings to be recorded. The recording can be either through digital means, or by use of a certified short hand reporter, if requested. The measure limits access to the recording or transcript and prohibits a defense attorney from sharing the transcript or recording with a client. The measure also specifies the procedure for protective orders on the transcript or recording in cases in which there are safety or secrecy concerns. Senate Bill 1550 A allows the use of the

transcript or recording at trial for impeachment purposes, but also allows a peace officer to testify on behalf of a witness if the witness is under 18 years of age, is unable to understand the proceedings due to a physical or developmental condition, and in cases where the rules of evidence otherwise allow hearsay testimony. The measure takes effect in larger counties first and is fully implemented across the state by July 1, 2018.