

Legislative Fiscal Office

Oregon State Capitol
900 Court Street NE, H-178
Salem, OR 97301
503-986-1828

Ken Rocco, Legislative Fiscal Officer
Paul Siebert, Deputy Fiscal Officer



Joint Committee on Ways and Means

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To: Public Safety Subcommittee

From: John Terpening, Legislative Fiscal Office

Date: Thursday, June 29, 2017

Subject: SB 505 Relating to recording of grand jury proceedings
Work Session Recommendations

Senate Bill 505 requires the county district attorney to ensure the electronic recording of all grand jury proceedings and to store and maintain copies of the audio recording. The measure provides for a phased-in implementation with Deschutes, Multnomah, and Jackson counties beginning to record grand jury proceedings on March 1, 2018 and all other counties in the state beginning July 1, 2019.

The -A13 amendment provides that the district attorneys will use the type of audio electronic recording devices that have been designated and provided, and are also maintained by, the Chief Justice of the Supreme Court. The district attorneys are required to delegate recording to a grand juror and provide instruction on using the equipment. Additionally, the measure provides for the filing of protective orders related to the grand jury recordings or transcripts, and requires the motion filed to include specific descriptions of the portion of the recording or transcription to be redacted.

The measure does not require the use of preliminary hearings instead of the grand jury process, an option that is currently available to district attorney's and the courts. However, the use of preliminary hearings as an alternative to grand jury recording has the potential to increase costs to the courts, district attorneys, Department of Justice, Public Defense Services Commission, and counties.

The Legislative Fiscal Office notes that given the indeterminate nature of how the bill will be implemented among counties across the state, and the potential impact of preliminary hearings as an alternative to grand jury recordings, the -A13 amendment provides for \$8.5 million General Fund to be set aside in a special purpose appropriation to the Emergency Board from which affected entities may request funds to carry out the provisions of the measure.

The measure also includes a \$1.5 million General Fund appropriation to the Judicial Department. This appropriation is intended to provide funding for the grand jury recording

process in the three early-implementing counties only. Included in this total are funds for the Judicial Department to purchase ten recording devices and eight servers (two each in Jackson and Deschutes and four in Multnomah). Additional costs include ten positions in OJD, totaling 7.29 FTE, and one limited-duration position to assist with program implementation. Included in the ten positions are additional staff for the expected caseload increase related to protective order motions, which are anticipated in 60% of recorded cases. In the event district attorney's request, preliminary hearings as an alternative, OJD may also use the \$1.5 million to address costs associated with the additional hearings.

The measure includes a reporting requirement on implementation for the Public Defense Services Commission, Judicial Department, and the three early-implementing counties. A preliminary report will be made to the Emergency Board and the interim Judiciary Committees no later than December 1, 2018 and a follow-up report will be delivered by February 1, 2019. The reports should include an initial assessment of the implementation in the early-implementing counties, including but not limited to, relevant information and data regarding the grand jury recording process, the preliminary hearing process, protective order process, information related to transcription, changes to policies or processes, as well as any legal issues or challenges arising from this measure.

Finally, LFO notes that this program will have significant roll-up costs in the 2019-21 biennium as the rest of the counties implement grand jury recordings or use preliminary hearings as an alternative.

Recommended Changes

LFO recommends adoption of the -A13 amendment.

MOTION: I move adoption of the -A13 amendment to SB 505. (VOTE)

Final Subcommittee Action

LFO recommends that SB 505, as amended, to be moved to the Ways and Means Full Committee.

MOTION: I move SB 505, as amended, to the Full Committee with a do pass recommendation. (VOTE)

Carriers

Full Committee: _____

House Floor: _____

Senate Floor: _____