

HOUSE AMENDMENTS TO HOUSE BILL 3077

By COMMITTEE ON JUDICIARY

April 24

- 1 On page 1 of the printed bill, line 2, delete “135.970” and insert “135.815”.
- 2 Delete lines 4 through 30 and insert:
- 3 “**SECTION 1.** ORS 135.815 is amended to read:
- 4 “135.815. (1) Except as otherwise provided in ORS 135.855 and 135.873, the district attorney shall
- 5 disclose to a represented defendant the following material and information within the possession or
- 6 control of the district attorney:
- 7 “(a) The names and addresses of persons whom the district attorney intends to call as witnesses
- 8 at any stage of the trial, together with their relevant written or recorded statements or memoranda
- 9 of any oral statements of such persons.
- 10 “(b) Any written or recorded statements or memoranda of any oral statements made by the de-
- 11 fendant, or made by a codefendant if the trial is to be a joint one.
- 12 “(c) Any reports or statements of experts, made in connection with the particular case, including
- 13 results of physical or mental examinations and of scientific tests, experiments or comparisons which
- 14 the district attorney intends to offer in evidence at the trial.
- 15 “(d) Any books, papers, documents, photographs or tangible objects:
- 16 “(A) Which the district attorney intends to offer in evidence at the trial; or
- 17 “(B) Which were obtained from or belong to the defendant.
- 18 “(e) If actually known to the district attorney, any record of prior criminal convictions of per-
- 19 sons whom the district attorney intends to call as witnesses at the trial; and the district attorney
- 20 shall make a good faith effort to determine if such convictions have occurred.
- 21 “(f) All prior convictions of the defendant known to the state that would affect the determi-
- 22 nation of the defendant’s criminal history for sentencing under rules of the Oregon Criminal Justice
- 23 Commission.
- 24 “(g) Any material or information that tends to:
- 25 “(A) Exculpate the defendant;
- 26 “(B) Negate or mitigate the defendant’s guilt or punishment; or
- 27 “(C) Impeach a person the district attorney intends to call as a witness at the trial.
- 28 “(2)(a) The disclosure required by subsection (1)(g) of this section shall occur without delay after
- 29 arraignment and prior to the entry of any guilty plea pursuant to an agreement with the state. If
- 30 the existence of the material or information is not known at that time, the disclosure shall be made
- 31 upon discovery without regard to whether the represented defendant has entered or agreed to enter
- 32 a guilty plea.
- 33 “(b) Nothing in subsection (1)(g) of this section:
- 34 “(A) Expands any obligation under a statutory provision or the Oregon or United States Con-
- 35 stitution to disclose, or right to disclosure of, personnel or internal affairs files of law enforcement

1 officers.

2 “(B) Imposes any obligation on the district attorney to provide material or information beyond
3 the obligation imposed by the Oregon and United States Constitutions.

4 “(3) Except as otherwise provided in ORS 135.855 and 135.873, in prosecutions for violation of
5 ORS 813.010 in which an instrument was used to test a person’s breath, blood or urine to determine
6 the alcoholic content of the person’s blood the district attorney shall disclose to a represented de-
7 fendant at least the following material and information within the possession or control of the dis-
8 trict attorney:

9 “(a) Any report prepared by a police officer relating to field tests, interviews, observations and
10 other information relating to the charged offense;

11 “(b) Any report relating to the test results;

12 “(c) A copy of the form provided to the defendant under ORS 813.100 (3)(b); and

13 “(d) Any checklist prepared by the operator of the instrument for the test.

14 “(4)(a) If a defendant is not represented by a lawyer, the district attorney shall disclose to the
15 defendant all of the information described in subsections (1) and (3) of this section except for the
16 personal identifiers of the victim and any witnesses.

17 “(b) Notwithstanding paragraph (a) of this subsection, the district attorney shall disclose the
18 personal identifiers of the victim and any witnesses if the trial court orders the disclosure. A trial
19 court shall order the district attorney to disclose the personal identifiers of the victim and any
20 witnesses if the trial court finds that:

21 “(A) The defendant has requested the information; and

22 “(B)(i) The victim or witness is a business or institution and disclosure of the information would
23 not represent a risk of harm to the victim or witness; or

24 “(ii) The need for the information cannot reasonably be met by other means.

25 “(5)(a) Unless authorized by the trial court to disclose the information, a lawyer representing a
26 defendant, or a representative of the lawyer, may not disclose to the defendant personal identifiers
27 of a victim or witness obtained under subsections (1) and (3) of this section.

28 “(b) The trial court shall order the lawyer, or representative of the lawyer, to disclose to the
29 defendant the personal identifiers of a victim or witness if the court finds that:

30 “(A) The defendant’s lawyer has requested the district attorney to disclose the information to
31 the defendant;

32 “(B) The district attorney has refused to disclose the information to the defendant; and

33 “(C) The need for the information cannot reasonably be met by other means.

34 “(6) As used in this section:

35 “(a) ‘Personal identifiers’ means:

36 “(A) **In relation to a witness, [a person’s] the witness’s** address, telephone number, Social
37 Security number and date of birth and the identifying number of [a person’s] **the witness’s** deposi-
38 tory account at a financial institution, as defined in ORS 706.008, or credit card account.

39 “(B) **In relation to a victim, the victim’s address, electronic mail address, telephone**
40 **number, Social Security number, date of birth, any user names or other identifying infor-**
41 **mation associated with the victim’s social media accounts and the identifying number of the**
42 **victim’s depository account at a financial institution, as defined in ORS 706.008, or credit**
43 **card account.**

44 “(b) ‘Representative of the lawyer’ has the meaning given that term in ORS 40.225.

45 “(c) ‘Represented defendant’ means a defendant who is represented by a lawyer in a criminal

1 action.

2 “(d) ‘Social media’ has the meaning given that term in ORS 659A.330.”.

3 On page 2, delete lines 1 through 15.

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