

# B-Engrossed Senate Bill 505

Ordered by the Senate July 3  
Including Senate Amendments dated April 21 and July 3

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs district attorney to ensure proceedings before grand jury are recorded **using audio electronic recording devices designated, provided and maintained by Judicial Department**. Directs district attorney to delegate recording requirement to grand juror and to provide instruction regarding audio electronic recording equipment. **Authorizes court to appoint, at request of prosecuting attorney, shorthand reporter to record grand jury proceedings at prosecuting attorney's expense**. Provides for phase-in of recording process based on population of district. **Requires district attorney to maintain audio recordings or shorthand reporter report**. Specifies matters that must be recorded and matters that may not be recorded.

**Provides that audio recordings and shorthand reporter notes or report are confidential**. Creates procedures for release of audio recordings **or shorthand reporter notes or report**. Specifies procedures for release of [*audio recording or*] transcript of grand jury proceeding concerning public servant resulting in indictment indorsed "not a true bill." Provides process for prosecuting attorney to request and enter protective order prohibiting or restricting access to recordings, **shorthand reporter notes or report or transcript**. [*Requires*] **Authorizes** prosecuting attorney to file motion for protective order [*upon victim's request*] **on behalf of victim or witness and requires prosecuting attorney** to describe specific portion of recording, **shorthand reporter notes or report or transcript** to be redacted. Specifies when recording, **shorthand reporter notes or report or transcript** prepared from recording[,] may be used in court proceedings.

Allows statements of certain persons to be received through testimony of peace officer.  
[*Prohibits release of grand jury proceeding recordings or transcripts as public record.*]

**Directs Public Defense Services Commission, Judicial Department and counties beginning recordation on March 1, 2018, to provide preliminary report on implementation of Act to Emergency Board and interim committees of Legislative Assembly related to judiciary no later than December 1, 2018, and final report to Joint Committee on Ways and Means and committees of Legislative Assembly related to judiciary no later than February 1, 2019.**

**Appropriates moneys to Judicial Department for purchase of recording equipment and services and other expenses necessary to carry out provisions of Act. Appropriates moneys to Emergency Board to be allocated for expenses necessary to carry out provisions of Act.**

[*Takes effect on 91st day following adjournment sine die.*]

**Declares emergency, effective on passage.**

## A BILL FOR AN ACT

1  
2 Relating to recording of grand jury proceedings; creating new provisions; amending ORS 132.090,  
3 132.320, 132.430, 132.550 and 135.405; repealing ORS 132.080; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1)(a) The district attorney of a county comprising a judicial district with a**  
6 **population between 150,000 and 300,000 or over 700,000 shall ensure that proceedings before**  
7 **the grand jury are recorded in the manner described in this section and section 2 of this 2017**  
8 **Act.**

9 **(b) The Chief Justice of the Supreme Court shall designate the types of audio electronic**  
10 **recording devices suitable for recording grand jury proceedings and may establish policies**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and procedures by rule or order to carry out the provisions of this section and sections 2 and  
2 3 of this 2017 Act.

3 (c) The district attorney shall use to record the grand jury proceedings audio electronic  
4 recording devices designated, provided and maintained by the Judicial Department.

5 (2)(a) The district attorney shall delegate the recording of grand jury proceedings to a  
6 grand juror and shall provide instruction to the grand juror concerning the audio electronic  
7 recording equipment and requirements of the recording.

8 (b) Notwithstanding paragraph (a) of this subsection, the court may, upon request of the  
9 prosecuting attorney, appoint a certified shorthand reporter as defined in ORS 8.415 or a  
10 shorthand reporter certified by a national certification association, who shall be permitted  
11 to attend all proceedings of the grand jury for the purpose of taking accurate notes. The  
12 shorthand reporter's services shall be paid for by the prosecuting attorney. The shorthand  
13 reporter shall be sworn to correctly report the proceedings of the grand jury described in  
14 section 2 of this 2017 Act and to keep secret any information concerning the grand jury  
15 proceedings.

16 (c) The grand juror or shorthand reporter recording the proceedings is not subject to  
17 subpoena, and may not disclose any information, concerning the grand jury proceedings  
18 without prior court order.

19 (3)(a) A failure of an audio electronic recording device to accurately record all or part  
20 of a grand jury proceeding does not affect the validity of any prosecution or indictment.

21 (b) A failure of a grand juror to operate an audio electronic recording device in a manner  
22 that accurately records all or part of a grand jury proceeding, as required, does not affect  
23 the validity of any prosecution or indictment.

24 (c) A failure of a shorthand reporter to prepare accurate notes or an accurate report of  
25 all or part of a grand jury proceeding, as required, does not affect the validity of any prose-  
26 cution or indictment.

27 (4) This section and section 2 of this 2017 Act do not apply to grand jury proceedings  
28 under ORS 132.440 that inquire into the condition and management of correctional facilities  
29 and youth correction facilities.

30 **SECTION 2.** (1) Except as provided in subsection (2) of this section, the grand juror de-  
31 scribed in section 1 (2)(a) of this 2017 Act, or the shorthand reporter described in section 1  
32 (2)(b) of this 2017 Act, who is recording grand jury proceedings in a judicial district with a  
33 population between 150,000 and 300,000 or over 700,000 shall record all testimony given before  
34 the grand jury, including:

35 (a) The case name and number;

36 (b) The name of each witness appearing before the grand jury; and

37 (c) Each question asked of, and each response provided by, a witness appearing before  
38 the grand jury.

39 (2) The grand juror operating the audio electronic recording device or the shorthand re-  
40 porter may not record:

41 (a) The deliberations or voting of the grand jury.

42 (b) A presentment made pursuant to ORS 132.370.

43 (c) Any statements made by a grand juror who is examined as a witness as provided in  
44 ORS 132.350.

45 (d) A procedure related to the production of records, or the unsealing of records,

1 subpoenaed pursuant to ORS 136.583 and to be presented before the grand jury.

2 (3) The district attorney shall maintain the audio recordings, or report of the shorthand  
3 reporter, produced pursuant to this section and section 1 of this 2017 Act.

4 **SECTION 3.** (1) Audio recordings and the notes or report of a shorthand reporter  
5 produced pursuant to sections 1 and 2 of this 2017 Act in a judicial district with a population  
6 between 150,000 and 300,000 or over 700,000 are confidential and may not be released except  
7 as described in this section.

8 (2) When an indictment resulting from grand jury proceedings is indorsed “a true bill,”  
9 the audio recording or the notes or report of a shorthand reporter of the grand jury pro-  
10 ceedings may be released only in the following manner:

11 (a) The prosecuting attorney may access a copy of the audio recording or the notes or  
12 report of a shorthand reporter at any time.

13 (b) When the defendant has been arraigned on the indictment and is represented by an  
14 attorney, the district attorney shall:

15 (A) Provide a copy to the defense attorney of all audio recordings, or the notes or report  
16 of a shorthand reporter, related to an indictment after 10 days have passed since the  
17 defendant’s arraignment on the indictment and no motion described in subsection (4) of this  
18 section has been filed; or

19 (B) Provide a copy of the audio recordings, or the notes or report of a shorthand repor-  
20 ter, to the defense attorney in accordance with the court’s ruling on the motion described  
21 in subsection (4) of this section, if a motion has been filed.

22 (c) Unless the court orders otherwise for good cause shown, the prosecuting attorney and  
23 the defense attorney may not copy, disseminate or republish the audio recording, the notes  
24 or report of a shorthand reporter, or a transcript prepared from the audio recording, notes  
25 or report, released pursuant to this subsection, except to provide a copy to an agent of the  
26 prosecuting attorney or defense attorney for the limited purpose of case preparation. Unless  
27 a court orders otherwise for good cause shown, in consulting with the defendant the defense  
28 attorney may not disclose to the defendant:

29 (A) Any personal identifiers of a victim, witness or grand juror obtained from the audio  
30 recording, report, notes or transcript; or

31 (B) Any portion of the audio recording, report, notes or transcript that contains any  
32 personal identifiers of a victim, witness or grand juror.

33 (d) The defense attorney may not provide a copy of the audio recording, notes or report,  
34 or a transcript prepared from the audio recording, notes or report, to the defendant.

35 (e) When the defendant has been arraigned but is not represented by an attorney, the  
36 defendant may request by motion that the court issue an order allowing the defendant access  
37 to review the contents of the audio recording or the notes or report of the shorthand re-  
38 porter. A copy of the motion must be provided to the prosecuting attorney. The prosecuting  
39 attorney may request a hearing on the motion within 10 days after receiving a copy. At the  
40 hearing, or in response to receiving the motion, the court shall appoint counsel for the de-  
41 fendant for the limited purpose of reviewing the audio recording, notes or report and may  
42 set reasonable conditions on the review of the audio recording, notes or report.

43 (3)(a) When a grand jury inquires into the conduct of a public servant as defined in ORS  
44 162.005 for acts occurring in the performance of the public servant’s duties, and an  
45 indictment resulting from the grand jury proceedings is indorsed “not a true bill”:

1 (A) The public servant or the prosecuting attorney may file a motion requesting a court  
2 order releasing all or a portion of a transcript of the grand jury proceedings. A copy of the  
3 motion must be served on the opposing party. In deciding whether to issue such an order,  
4 the court shall determine whether the public interest in disclosure outweighs the interest in  
5 maintaining the secrecy of the grand jury proceedings. If the court orders disclosure, the  
6 court may set reasonable conditions on copying, disseminating or republishing the transcript.

7 (B) A member of the public may file a motion requesting a court order for production  
8 and release of a transcript of the grand jury proceedings. A copy of the motion must be  
9 served on the prosecuting attorney and the public servant's attorney, or the public servant  
10 if the public servant is not represented by an attorney. The person filing the motion is re-  
11 sponsible for the cost of producing the transcript and a court order for production and re-  
12 lease of the transcript must be conditioned on receipt of payment. In deciding whether to  
13 issue such an order, the court shall determine whether the public interest in disclosure  
14 outweighs the interest in maintaining the secrecy of the grand jury proceedings. If the court  
15 orders disclosure, the court may set reasonable conditions on copying, disseminating or re-  
16 publishing the transcript.

17 (b) The release of any transcript under this subsection may not include:

18 (A) The release of any personal identifiers of a victim or witness; or

19 (B) The release of the name or any personal identifiers of a grand juror.

20 (4)(a) A motion for a protective order concerning an audio recording, the notes or report  
21 of a shorthand reporter or a transcript of grand jury proceedings may be filed as follows:

22 (A) The prosecuting attorney may file a motion for a protective order within 10 days af-  
23 ter the defendant's arraignment on the indictment. The motion may be filed on behalf of a  
24 victim or a witness. The prosecuting attorney shall inform the victim of the ability to seek  
25 a protective order.

26 (B) The prosecuting attorney may file a motion for a protective order within 10 days after  
27 receiving a motion described in subsection (2)(e) of this section.

28 (C) The prosecuting attorney, the public servant who is the subject of an indictment  
29 indorsed "not a true bill" or the public servant's attorney may file a motion for a protective  
30 order within 10 days of receiving a motion described in subsection (3)(a) of this section.

31 (b) If the motion for a protective order requests that a portion of the audio recording,  
32 notes, report or transcript be redacted, the motion must be accompanied by a specific de-  
33 scription, including the date and time, of the portion of the audio recording, notes, report  
34 or transcript to be redacted.

35 (c) In response to a motion filed under this subsection, the court may order that the  
36 access of the person requesting release to a copy of the audio recording, notes, report or  
37 transcript be denied, restricted or deferred, or may make any other order, upon a finding  
38 of substantial and compelling circumstances. In deciding whether to grant the motion and  
39 enter a protective order under this paragraph, the court may consider the following:

40 (A) Protection of witnesses and others from physical harm, threats of harm, bribes,  
41 economic interference, reprisal and other forms of intimidation;

42 (B) Maintenance of secrecy regarding informants, as required for effective investigation  
43 of criminal activity;

44 (C) Confidential information recognized under law, including the protection of confiden-  
45 tial relationships and privileges and the contents of confidential records unrelated to a crime

1 **alleged in the indictment; and**

2 **(D) Any other relevant considerations.**

3 **(d) The court may permit the evidence of substantial and compelling circumstances de-**  
4 **scribed in paragraph (c) of this subsection to be made in the form of a written statement to**  
5 **be inspected by the court only or by oral testimony given on the record.**

6 **(5)(a) Except as provided in paragraph (b) of this subsection, when grand jury proceedings**  
7 **do not result in an indictment indorsed as either “a true bill” or “not a true bill,” the audio**  
8 **recording or notes or report of the shorthand reporter produced pursuant to sections 1 and**  
9 **2 of this 2017 Act may not be disclosed or released.**

10 **(b) When subsequent grand jury proceedings occur inquiring into the same criminal epi-**  
11 **sode as the grand jury proceedings described in paragraph (a) of this subsection, and the**  
12 **subsequent proceedings result in an indictment indorsed as “a true bill,” the prosecuting**  
13 **attorney shall provide notice to the person charged in the indictment of the occurrence of**  
14 **the earlier grand jury proceedings. After the person is arraigned on the indictment and the**  
15 **time period described in subsection (2)(b) of this section has passed, the audio recording or**  
16 **the notes or report of the shorthand reporter produced during the earlier grand jury pro-**  
17 **ceedings may be obtained in the manner set forth in subsection (2) of this section.**

18 **(c) As used in this subsection, “criminal episode” has the meaning given that term in**  
19 **ORS 131.505.**

20 **(6) The district attorney of each county may establish a fee for the cost of providing a**  
21 **copy of any audio recording, or the notes or report of a shorthand reporter, of a grand jury**  
22 **proceeding to a person requesting a copy under this section.**

23 **(7) An audio recording, the notes or report of a shorthand reporter or a transcript of a**  
24 **grand jury proceeding obtained pursuant to sections 1 and 2 of this 2017 Act and this section:**

25 **(a) May not be used as evidence in any subsequent proceeding, except as permitted under**  
26 **ORS 40.375, 40.380, 40.450, 40.460 or 40.465.**

27 **(b) May not be used to challenge the indorsement of an indictment “a true bill” or the**  
28 **proceedings that led to the indorsement.**

29 **(c) May be used as evidence in a prosecution for perjury or false swearing committed by**  
30 **a witness while giving testimony during the grand jury proceeding or during trial.**

31 **(d) May be used as evidence in a proceeding for contempt of court against a person al-**  
32 **leged to have violated the terms of a court order concerning the audio recording, notes, re-**  
33 **port or transcript.**

34 **(e) May be submitted to the court and used as evidence for a hearing on a protective**  
35 **order described in subsection (4) of this section.**

36 **(8) The release of audio recordings, shorthand reporter notes or reports or transcripts**  
37 **of grand jury proceedings under this section does not affect discovery obligations under ORS**  
38 **135.805 to 135.873.**

39 **(9) As used in this section:**

40 **(a) “Personal identifiers” means:**

41 **(A) In relation to a witness or a grand juror, the person’s address, telephone number,**  
42 **driver license, vehicle registration information, Social Security number, date of birth and the**  
43 **identifying number of the person’s depository account at a financial institution, as defined**  
44 **in ORS 706.008, or credit card account.**

45 **(B) In relation to a victim, the victim’s address, electronic mail address, telephone**

1 **number, driver license, vehicle registration information, Social Security number, date of**  
2 **birth, any user names or other identifying information associated with the victim's social**  
3 **media accounts and the identifying number of the victim's depository account at a financial**  
4 **institution, as defined in ORS 706.008, or credit card account.**

5 **(b) "Social media" has the meaning given that term in ORS 659A.330.**

6 **SECTION 4.** ORS 132.090 is amended to read:

7 132.090. (1) Except as provided in subsections (2) and (3) of this section **and sections 1 and 2**  
8 **of this 2017 Act**, no person other than the district attorney or a witness actually under examination  
9 shall be present during the sittings of the grand jury.

10 (2) Upon a motion filed by the district attorney in the circuit court, the circuit judge may ap-  
11 point a reporter who shall attend the sittings of the grand jury to take and report the testimony in  
12 any matters pending before the grand jury, and may appoint a parent, guardian or other appropriate  
13 person 18 years of age or older to accompany any child 12 years of age or younger, or any person  
14 with an intellectual disability, during an appearance before the grand jury. The circuit judge, upon  
15 the district attorney's showing to the court that it is necessary for the proper examination of a  
16 witness appearing before the grand jury, may appoint a guard, medical or other special attendant  
17 or nurse, who shall be present in the grand jury room and shall attend such sittings.

18 (3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-  
19 terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-  
20 ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a  
21 certified interpreter is not available and that the person designated by the district attorney is a  
22 qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may  
23 be present in the grand jury room and attend the sittings of the grand jury.

24 (4) No person other than members of the grand jury shall be present when the grand jury is  
25 deliberating or voting upon a matter before it.

26 (5) As used in this section, "intellectual disability" has the meaning given that term in ORS  
27 427.005. Intellectual disability may be shown by attaching to the motion of the district attorney:

28 (a) Documentary evidence of intellectual functioning; or

29 (b) The affidavit of a qualified person familiar with the person with an intellectual disability.

30 "Qualified person" includes, but is not limited to, a teacher, therapist or physician.

31 **SECTION 5.** ORS 132.320 is amended to read:

32 132.320. (1) Except as provided in subsections (2) to [(12)] **(13)** of this section, in the investi-  
33 gation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than  
34 such as might be given on the trial of the person charged with the crime in question.

35 (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,  
36 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-  
37 pert or technician in some comparable scientific or professional field, concerning the results of an  
38 examination, comparison or test performed by such person in connection with a case which is the  
39 subject of a grand jury proceeding, shall, when certified by such person as a report made by such  
40 person or as a true copy thereof, be received in evidence in the grand jury proceeding.

41 (3) An affidavit of a witness who is unable to appear before the grand jury shall be received in  
42 evidence in the grand jury proceeding if, upon application by the district attorney, the presiding  
43 judge for the judicial district in which the grand jury is sitting authorizes the receipt after good  
44 cause has been shown for the witness' inability to appear. An affidavit taken in another state or  
45 territory of the United States, the District of Columbia or in a foreign country must be

1 authenticated as provided in ORS chapter 194 before it can be used in this state.

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

6 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-  
7 mission allowing the grand jury and district attorney to observe and communicate with the witness  
8 and the witness to observe and communicate with the grand jury and the district attorney.

9 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,  
10 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-  
11 fendant failed to appear as required by law and setting forth facts sufficient to support that con-  
12 clusion.

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

20 (b) If the official report contains evidence other than chain of custody, venue or the name of the  
21 person suspected of committing an offense, the grand jurors must be notified that the evidence is  
22 being submitted by report and that the peace officer who compiled the report will be made available  
23 for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace  
24 officer under this paragraph, the peace officer may present sworn testimony by telephone if requir-  
25 ing the peace officer's presence before the grand jury would constitute an undue hardship on the  
26 peace officer or the agency that employs or utilizes the peace officer.

27 (8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS  
28 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and sex  
29 offender registration forms and an affidavit of a representative of the Oregon State Police, as  
30 keepers of the state's sex offender registration records, certifying that the certified copies of the  
31 forms constitute the complete record for the defendant.

32 (9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other  
33 evidence within its reach will explain away the charge, it should order such evidence to be  
34 produced, and for that purpose may require the district attorney to issue process for the witnesses.

35 (10) A grand jury that is investigating a charge of driving while under the influence of  
36 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-  
37 garding any or all of the following:

38 (a) Whether the defendant was driving.

39 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

40 (c) The administration of tests under any provision of ORS chapter 813 and the results of such  
41 tests.

42 (d) The officer's observations of physical or mental impairment of the defendant.

43 (11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial in-  
44 stitution for the purpose of authenticating records of the financial institution.

45 (b) As used in this subsection, "financial institution" means a financial institution as defined in

1 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-  
2 parable entity that regularly produces financial records.

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

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

10 (c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district  
11 attorney shall provide in writing the date, time and location of the defendant's appearance before  
12 the grand jury to the defense attorney at the indicated electronic mail address. In the event of a  
13 scheduling conflict, the district attorney shall reasonably accommodate the schedules of the de-  
14 fendant and the defense attorney if the accommodation does not delay the grand jury proceeding  
15 beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

16 (d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate  
17 a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary  
18 hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial  
19 days and the district attorney and the defendant may stipulate to an extension of greater duration.  
20 During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to  
21 135.290 shall continue to apply concerning the custody status of the defendant.

22 **(13) A grand jury in a judicial district with a population between 150,000 and 300,000 or**  
23 **over 700,000, the proceedings of which are recorded pursuant to sections 1 and 2 of this 2017**  
24 **Act, may receive in evidence, through the testimony of a peace officer involved in the crim-**  
25 **inal investigation under grand jury inquiry, the statement of:**

26 (a) **A person who cannot readily understand the proceedings, or who cannot communicate**  
27 **in the proceedings, because of a physical disability or developmental disability; or**

28 (b) **A victim under 18 years of age at the time of the proceedings.**

29 **SECTION 6.** ORS 132.430 is amended to read:

30 132.430. (1) When a person has been held to answer a criminal charge and the indictment in  
31 relation thereto is not found "a true bill," [it] **the indictment** must be indorsed "not a true bill,"  
32 which indorsement must be signed by the foreman and filed with the clerk of the court, in whose  
33 office it shall remain a public record. In the case of an indictment not found "a true bill" against  
34 a person [*not so held, the same, together with the minutes of the evidence in relation thereto,*] **who has**  
35 **not been held to answer a criminal charge, the indictment** must be destroyed by the grand jury.

36 (2) When an indictment indorsed "not a true bill" has been filed with the clerk of the court, the  
37 effect [*thereof*] is to dismiss the charge[;], and the [*same*] **charge** cannot be again submitted to or  
38 inquired of by the grand jury unless the court so orders.

39 **SECTION 7.** ORS 132.550 is amended to read:

40 132.550. The indictment shall contain substantially the following:

41 (1) The name of the circuit court in which it is filed;

42 (2) The title of the action;

43 (3) A statement that the grand jury accuses the defendant or defendants of the designated of-  
44 fense or offenses;

45 (4) A separate accusation or count addressed to each offense charged, if there be more than one;

1 (5) A statement in each count that the offense charged therein was committed in a designated  
2 county;

3 (6) A statement in each count that the offense charged therein was committed on, or on or  
4 about, a designated date, or during a designated period of time;

5 (7) A statement of the acts constituting the offense in ordinary and concise language, without  
6 repetition, and in such manner as to enable a person of common understanding to know what is in-  
7 tended;

8 **(8) The dates of all grand jury proceedings related to the offense or offenses charged;**

9 [(8)] **(9)** The signatures of the foreman and of the district attorney; and

10 [(9)] **(10)** The date the indictment is filed with the clerk of the court.

11 **SECTION 8.** ORS 135.405 is amended to read:

12 135.405. (1) In cases in which it appears that the interest of the public in the effective adminis-  
13 tration of criminal justice would thereby be served, and in accordance with the criteria set forth in  
14 ORS 135.415, the district attorney may engage in plea discussions for the purpose of reaching a plea  
15 agreement.

16 (2) The district attorney shall engage in plea discussions or reach a plea agreement with the  
17 defendant only through defense counsel, except when, as a matter of record, the defendant has ef-  
18 fectively waived the right of the defendant to counsel or, if the defendant is not eligible for ap-  
19 pointed counsel, has not retained counsel.

20 (3) The district attorney in reaching a plea agreement may agree to, but is not limited to, one  
21 or more of the following, as required by the circumstances of the individual case:

22 (a) To make or not to oppose favorable recommendations as to the sentence which should be  
23 imposed if the defendant enters a plea of guilty or no contest to the offense charged;

24 (b) To seek or not to oppose dismissal of the offense charged if the defendant enters a plea of  
25 guilty or no contest to another offense reasonably related to the defendant's conduct; or

26 (c) To seek or not to oppose dismissal of other charges or to refrain from bringing potential  
27 charges if the defendant enters a plea of guilty or no contest to the offense charged.

28 (4) Similarly situated defendants should be afforded equal plea agreement opportunities.

29 (5) The district attorney may not condition a plea offer on a requirement that the defendant  
30 waive:

31 (a) The disclosure obligation of ORS 135.815 (1)(g)[.]; or

32 (b) **The ability to receive the audio recording of grand jury proceedings as permitted un-  
33 der section 3 of this 2017 Act, if the indictment has been indorsed "a true bill."**

34 (6)(a) A district attorney may provide a plea offer and agreed disposition recommendation to the  
35 defendant at the time of arraignment or first appearance of the defendant for a crime in open court  
36 under an early disposition program established under ORS 135.941.

37 (b) Unless extended by the court, a plea offer and agreed disposition recommendation made un-  
38 der paragraph (a) of this subsection expire upon completion of the arraignment. Except for good  
39 cause, a court may not extend a plea offer and agreed disposition recommendation under this para-  
40 graph for more than seven days for a misdemeanor or 21 days for a felony.

41 **SECTION 9.** Section 1 of this 2017 Act is amended to read:

42 **Sec. 1.** (1)(a) The district attorney of a county [*comprising a judicial district with a population*  
43 *between 150,000 and 300,000 or over 700,000*] shall ensure that proceedings before the grand jury are  
44 recorded in the manner described in this section and section 2 of this 2017 Act.

45 (b) The Chief Justice of the Supreme Court shall designate the types of audio electronic re-

1 cording devices suitable for recording grand jury proceedings and may establish policies and pro-  
2 cedures by rule or order to carry out the provisions of this section and sections 2 and 3 of this 2017  
3 Act.

4 (c) The district attorney shall use to record the grand jury proceedings audio electronic re-  
5 cording devices designated, provided and maintained by the Judicial Department.

6 (2)(a) The district attorney shall delegate the recording of grand jury proceedings to a grand  
7 juror and shall provide instruction to the grand juror concerning the audio electronic recording  
8 equipment and requirements of the recording.

9 (b) Notwithstanding paragraph (a) of this subsection, the court may, upon request of the prose-  
10 cuting attorney, appoint a certified shorthand reporter as defined in ORS 8.415 or a shorthand re-  
11 porter certified by a national certification association, who shall be permitted to attend all  
12 proceedings of the grand jury for the purpose of taking accurate notes. The shorthand reporter's  
13 services shall be paid for by the prosecuting attorney. The shorthand reporter shall be sworn to  
14 correctly report the proceedings of the grand jury described in section 2 of this 2017 Act and to  
15 keep secret any information concerning the grand jury proceedings.

16 (c) The grand juror or shorthand reporter recording the proceedings is not subject to subpoena,  
17 and may not disclose any information, concerning the grand jury proceedings without prior court  
18 order.

19 (3)(a) A failure of an audio electronic recording device to accurately record all or part of a  
20 grand jury proceeding does not affect the validity of any prosecution or indictment.

21 (b) A failure of a grand juror to operate an audio electronic recording device in a manner that  
22 accurately records all or part of a grand jury proceeding, as required, does not affect the validity  
23 of any prosecution or indictment.

24 (c) A failure of a shorthand reporter to prepare accurate notes or an accurate report of all or  
25 part of a grand jury proceeding, as required, does not affect the validity of any prosecution or  
26 indictment.

27 (4) This section and section 2 of this 2017 Act do not apply to grand jury proceedings under  
28 ORS 132.440 that inquire into the condition and management of correctional facilities and youth  
29 correction facilities.

30 **SECTION 10.** Section 2 of this 2017 Act is amended to read:

31 **Sec. 2.** (1) Except as provided in subsection (2) of this section, the grand juror described in  
32 section 1 (2)(a) of this 2017 Act, or the shorthand reporter described in section 1 (2)(b) of this 2017  
33 Act, who is recording grand jury proceedings [*in a judicial district with a population between 150,000*  
34 *and 300,000 or over 700,000*] shall record all testimony given before the grand jury, including:

35 (a) The case name and number;

36 (b) The name of each witness appearing before the grand jury; and

37 (c) Each question asked of, and each response provided by, a witness appearing before the grand  
38 jury.

39 (2) The grand juror operating the audio electronic recording device or the shorthand reporter  
40 may not record:

41 (a) The deliberations or voting of the grand jury.

42 (b) A presentment made pursuant to ORS 132.370.

43 (c) Any statements made by a grand juror who is examined as a witness as provided in ORS  
44 132.350.

45 (d) A procedure related to the production of records, or the unsealing of records, subpoenaed

1 pursuant to ORS 136.583 and to be presented before the grand jury.

2 (3) The district attorney shall maintain the audio recordings, or report of the shorthand repor-  
3 ter, produced pursuant to this section and section 1 of this 2017 Act.

4 **SECTION 11.** Section 3 of this 2017 Act is amended to read:

5 **Sec. 3.** (1) Audio recordings and the notes or report of a shorthand reporter produced pursuant  
6 to sections 1 and 2 of this 2017 Act [*in a judicial district with a population between 150,000 and*  
7 *300,000 or over 700,000*] are confidential and may not be released except as described in this section.

8 (2) When an indictment resulting from grand jury proceedings is indorsed “a true bill,” the audio  
9 recording or the notes or report of a shorthand reporter of the grand jury proceedings may be re-  
10 leased only in the following manner:

11 (a) The prosecuting attorney may access a copy of the audio recording or the notes or report  
12 of a shorthand reporter at any time.

13 (b) When the defendant has been arraigned on the indictment and is represented by an attorney,  
14 the district attorney shall:

15 (A) Provide a copy to the defense attorney of all audio recordings, or the notes or report of a  
16 shorthand reporter, related to an indictment after 10 days have passed since the defendant’s  
17 arraignment on the indictment and no motion described in subsection (4) of this section has been  
18 filed; or

19 (B) Provide a copy of the audio recordings, or the notes or report of a shorthand reporter, to  
20 the defense attorney in accordance with the court’s ruling on the motion described in subsection (4)  
21 of this section, if a motion has been filed.

22 (c) Unless the court orders otherwise for good cause shown, the prosecuting attorney and the  
23 defense attorney may not copy, disseminate or republish the audio recording, the notes or report  
24 of a shorthand reporter, or a transcript prepared from the audio recording, notes or report, released  
25 pursuant to this subsection, except to provide a copy to an agent of the prosecuting attorney or  
26 defense attorney for the limited purpose of case preparation. Unless a court orders otherwise for  
27 good cause shown, in consulting with the defendant the defense attorney may not disclose to the  
28 defendant:

29 (A) Any personal identifiers of a victim, witness or grand juror obtained from the audio re-  
30 cording, report, notes or transcript; or

31 (B) Any portion of the audio recording, report, notes or transcript that contains any personal  
32 identifiers of a victim, witness or grand juror.

33 (d) The defense attorney may not provide a copy of the audio recording, notes or report, or a  
34 transcript prepared from the audio recording, notes or report, to the defendant.

35 (e) When the defendant has been arraigned but is not represented by an attorney, the defendant  
36 may request by motion that the court issue an order allowing the defendant access to review the  
37 contents of the audio recording or the notes or report of the shorthand reporter. A copy of the  
38 motion must be provided to the prosecuting attorney. The prosecuting attorney may request a  
39 hearing on the motion within 10 days after receiving a copy. At the hearing, or in response to re-  
40 ceiving the motion, the court shall appoint counsel for the defendant for the limited purpose of re-  
41 viewing the audio recording, notes or report and may set reasonable conditions on the review of the  
42 audio recording, notes or report.

43 (3)(a) When a grand jury inquires into the conduct of a public servant as defined in ORS 162.005  
44 for acts occurring in the performance of the public servant’s duties, and an indictment resulting  
45 from the grand jury proceedings is indorsed “not a true bill”:

1 (A) The public servant or the prosecuting attorney may file a motion requesting a court order  
2 releasing all or a portion of a transcript of the grand jury proceedings. A copy of the motion must  
3 be served on the opposing party. In deciding whether to issue such an order, the court shall deter-  
4 mine whether the public interest in disclosure outweighs the interest in maintaining the secrecy of  
5 the grand jury proceedings. If the court orders disclosure, the court may set reasonable conditions  
6 on copying, disseminating or republishing the transcript.

7 (B) A member of the public may file a motion requesting a court order for production and re-  
8 lease of a transcript of the grand jury proceedings. A copy of the motion must be served on the  
9 prosecuting attorney and the public servant's attorney, or the public servant if the public servant  
10 is not represented by an attorney. The person filing the motion is responsible for the cost of  
11 producing the transcript and a court order for production and release of the transcript must be  
12 conditioned on receipt of payment. In deciding whether to issue such an order, the court shall de-  
13 termine whether the public interest in disclosure outweighs the interest in maintaining the secrecy  
14 of the grand jury proceedings. If the court orders disclosure, the court may set reasonable conditions  
15 on copying, disseminating or republishing the transcript.

16 (b) The release of any transcript under this subsection may not include:

17 (A) The release of any personal identifiers of a victim or witness; or

18 (B) The release of the name or any personal identifiers of a grand juror.

19 (4)(a) A motion for a protective order concerning an audio recording, the notes or report of a  
20 shorthand reporter or a transcript of grand jury proceedings may be filed as follows:

21 (A) The prosecuting attorney may file a motion for a protective order within 10 days after the  
22 defendant's arraignment on the indictment. The motion may be filed on behalf of a victim or a wit-  
23 ness. The prosecuting attorney shall inform the victim of the ability to seek a protective order.

24 (B) The prosecuting attorney may file a motion for a protective order within 10 days after re-  
25 ceiving a motion described in subsection (2)(e) of this section.

26 (C) The prosecuting attorney, the public servant who is the subject of an indictment indorsed  
27 "not a true bill" or the public servant's attorney may file a motion for a protective order within 10  
28 days of receiving a motion described in subsection (3)(a) of this section.

29 (b) If the motion for a protective order requests that a portion of the audio recording, notes,  
30 report or transcript be redacted, the motion must be accompanied by a specific description, includ-  
31 ing the date and time, of the portion of the audio recording, notes, report or transcript to be  
32 redacted.

33 (c) In response to a motion filed under this subsection, the court may order that the access of  
34 the person requesting release to a copy of the audio recording, notes, report or transcript be denied,  
35 restricted or deferred, or may make any other order, upon a finding of substantial and compelling  
36 circumstances. In deciding whether to grant the motion and enter a protective order under this  
37 paragraph, the court may consider the following:

38 (A) Protection of witnesses and others from physical harm, threats of harm, bribes, economic  
39 interference, reprisal and other forms of intimidation;

40 (B) Maintenance of secrecy regarding informants, as required for effective investigation of  
41 criminal activity;

42 (C) Confidential information recognized under law, including the protection of confidential re-  
43 lationships and privileges and the contents of confidential records unrelated to a crime alleged in  
44 the indictment; and

45 (D) Any other relevant considerations.

1 (d) The court may permit the evidence of substantial and compelling circumstances described in  
2 paragraph (c) of this subsection to be made in the form of a written statement to be inspected by  
3 the court only or by oral testimony given on the record.

4 (5)(a) Except as provided in paragraph (b) of this subsection, when grand jury proceedings do  
5 not result in an indictment indorsed as either “a true bill” or “not a true bill,” the audio recording  
6 or notes or report of the shorthand reporter produced pursuant to sections 1 and 2 of this 2017 Act  
7 may not be disclosed or released.

8 (b) When subsequent grand jury proceedings occur inquiring into the same criminal episode as  
9 the grand jury proceedings described in paragraph (a) of this subsection, and the subsequent pro-  
10 ceedings result in an indictment indorsed as “a true bill,” the prosecuting attorney shall provide  
11 notice to the person charged in the indictment of the occurrence of the earlier grand jury pro-  
12 ceedings. After the person is arraigned on the indictment and the time period described in sub-  
13 section (2)(b) of this section has passed, the audio recording or the notes or report of the shorthand  
14 reporter produced during the earlier grand jury proceedings may be obtained in the manner set forth  
15 in subsection (2) of this section.

16 (c) As used in this subsection, “criminal episode” has the meaning given that term in ORS  
17 131.505.

18 (6) The district attorney of each county may establish a fee for the cost of providing a copy of  
19 any audio recording, or the notes or report of a shorthand reporter, of a grand jury proceeding to  
20 a person requesting a copy under this section.

21 (7) An audio recording, the notes or report of a shorthand reporter or a transcript of a grand  
22 jury proceeding obtained pursuant to sections 1 and 2 of this 2017 Act and this section:

23 (a) May not be used as evidence in any subsequent proceeding, except as permitted under ORS  
24 40.375, 40.380, 40.450, 40.460 or 40.465.

25 (b) May not be used to challenge the indorsement of an indictment “a true bill” or the pro-  
26 ceedings that led to the indorsement.

27 (c) May be used as evidence in a prosecution for perjury or false swearing committed by a wit-  
28 ness while giving testimony during the grand jury proceeding or during trial.

29 (d) May be used as evidence in a proceeding for contempt of court against a person alleged to  
30 have violated the terms of a court order concerning the audio recording, notes, report or transcript.

31 (e) May be submitted to the court and used as evidence for a hearing on a protective order de-  
32 scribed in subsection (4) of this section.

33 (8) The release of audio recordings, shorthand reporter notes or reports or transcripts of grand  
34 jury proceedings under this section does not affect discovery obligations under ORS 135.805 to  
35 135.873.

36 (9) As used in this section:

37 (a) “Personal identifiers” means:

38 (A) In relation to a witness or a grand juror, the person’s address, telephone number, driver li-  
39 cense, vehicle registration information, Social Security number, date of birth and the identifying  
40 number of the person’s depository account at a financial institution, as defined in ORS 706.008, or  
41 credit card account.

42 (B) In relation to a victim, the victim’s address, electronic mail address, telephone number,  
43 driver license, vehicle registration information, Social Security number, date of birth, any user  
44 names or other identifying information associated with the victim’s social media accounts and the  
45 identifying number of the victim’s depository account at a financial institution, as defined in ORS

1 706.008, or credit card account.

2 (b) "Social media" has the meaning given that term in ORS 659A.330.

3 **SECTION 12.** ORS 132.090, as amended by section 4 of this 2017 Act, is amended to read:

4 132.090. (1) Except as provided in subsections (2) and (3) of this section and sections 1 and 2 of  
5 this 2017 Act, no person other than the district attorney or a witness actually under examination  
6 shall be present during the sittings of the grand jury.

7 (2) Upon a motion filed by the district attorney in the circuit court, the circuit judge may ap-  
8 point [*a reporter who shall attend the sittings of the grand jury to take and report the testimony in any*  
9 *matters pending before the grand jury, and may appoint*] a parent, guardian or other appropriate  
10 person 18 years of age or older to accompany any child 12 years of age or younger, or any person  
11 with an intellectual disability, during an appearance before the grand jury. The circuit judge, upon  
12 the district attorney's showing to the court that it is necessary for the proper examination of a  
13 witness appearing before the grand jury, may appoint a guard, medical or other special attendant  
14 or nurse, who shall be present in the grand jury room and shall attend such sittings.

15 (3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-  
16 terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-  
17 ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a  
18 certified interpreter is not available and that the person designated by the district attorney is a  
19 qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may  
20 be present in the grand jury room and attend the sittings of the grand jury.

21 (4) No person other than members of the grand jury shall be present when the grand jury is  
22 deliberating or voting upon a matter before it.

23 (5) As used in this section, "intellectual disability" has the meaning given that term in ORS  
24 427.005. Intellectual disability may be shown by attaching to the motion of the district attorney:

25 (a) Documentary evidence of intellectual functioning; or

26 (b) The affidavit of a qualified person familiar with the person with an intellectual disability.  
27 "Qualified person" includes, but is not limited to, a teacher, therapist or physician.

28 **SECTION 13.** ORS 132.320, as amended by section 5 of this 2017 Act, is amended to read:

29 132.320. (1) Except as provided in subsections (2) to (13) of this section, in the investigation of  
30 a charge for the purpose of indictment, the grand jury shall receive no other evidence than such  
31 as might be given on the trial of the person charged with the crime in question.

32 (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,  
33 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-  
34 pert or technician in some comparable scientific or professional field, concerning the results of an  
35 examination, comparison or test performed by such person in connection with a case which is the  
36 subject of a grand jury proceeding, shall, when certified by such person as a report made by such  
37 person or as a true copy thereof, be received in evidence in the grand jury proceeding.

38 (3) An affidavit of a witness who is unable to appear before the grand jury shall be received in  
39 evidence in the grand jury proceeding if, upon application by the district attorney, the presiding  
40 judge for the judicial district in which the grand jury is sitting authorizes the receipt after good  
41 cause has been shown for the witness' inability to appear. An affidavit taken in another state or  
42 territory of the United States, the District of Columbia or in a foreign country must be  
43 authenticated as provided in ORS chapter 194 before it can be used in this state.

44 (4) A grand jury that is investigating a charge of criminal driving while suspended or revoked  
45 under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of

1 a report of the peace officer concerning the peace officer's investigation of the violation of ORS  
2 811.182 by the defendant.

3 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-  
4 mission allowing the grand jury and district attorney to observe and communicate with the witness  
5 and the witness to observe and communicate with the grand jury and the district attorney.

6 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,  
7 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-  
8 fendant failed to appear as required by law and setting forth facts sufficient to support that con-  
9 clusion.

10 (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence  
11 through the testimony of one peace officer involved in the criminal investigation under grand jury  
12 inquiry information from an official report of another peace officer involved in the same criminal  
13 investigation concerning the other peace officer's investigation of the matter before the grand jury.  
14 The statement of a person suspected of committing an offense or inadmissible hearsay of persons  
15 other than the peace officer who compiled the official report may not be presented to a grand jury  
16 under this paragraph.

17 (b) If the official report contains evidence other than chain of custody, venue or the name of the  
18 person suspected of committing an offense, the grand jurors must be notified that the evidence is  
19 being submitted by report and that the peace officer who compiled the report will be made available  
20 for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace  
21 officer under this paragraph, the peace officer may present sworn testimony by telephone if requir-  
22 ing the peace officer's presence before the grand jury would constitute an undue hardship on the  
23 peace officer or the agency that employs or utilizes the peace officer.

24 (8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS  
25 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and sex  
26 offender registration forms and an affidavit of a representative of the Oregon State Police, as  
27 keepers of the state's sex offender registration records, certifying that the certified copies of the  
28 forms constitute the complete record for the defendant.

29 (9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other  
30 evidence within its reach will explain away the charge, it should order such evidence to be  
31 produced, and for that purpose may require the district attorney to issue process for the witnesses.

32 (10) A grand jury that is investigating a charge of driving while under the influence of  
33 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-  
34 garding any or all of the following:

35 (a) Whether the defendant was driving.

36 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

37 (c) The administration of tests under any provision of ORS chapter 813 and the results of such  
38 tests.

39 (d) The officer's observations of physical or mental impairment of the defendant.

40 (11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial in-  
41 stitution for the purpose of authenticating records of the financial institution.

42 (b) As used in this subsection, "financial institution" means a financial institution as defined in  
43 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-  
44 parable entity that regularly produces financial records.

45 (12)(a) A defendant who has been arraigned on an information alleging a felony charge that is

1 the subject of a grand jury proceeding and who is represented by an attorney has a right to appear  
2 before the grand jury as a witness if, prior to the filing of an indictment, the defense attorney serves  
3 upon the district attorney written notice requesting the appearance. The notice shall include an  
4 electronic mail address at which the defense attorney may be contacted.

5 (b) A district attorney is not obligated to inform a defendant that a grand jury proceeding in-  
6 vestigating charges against the defendant is pending, in progress or about to occur.

7 (c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district  
8 attorney shall provide in writing the date, time and location of the defendant's appearance before  
9 the grand jury to the defense attorney at the indicated electronic mail address. In the event of a  
10 scheduling conflict, the district attorney shall reasonably accommodate the schedules of the de-  
11 fendant and the defense attorney if the accommodation does not delay the grand jury proceeding  
12 beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

13 (d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate  
14 a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary  
15 hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial  
16 days and the district attorney and the defendant may stipulate to an extension of greater duration.  
17 During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to  
18 135.290 shall continue to apply concerning the custody status of the defendant.

19 (13) A grand jury *[in a judicial district with a population between 150,000 and 300,000 or over*  
20 *700,000]*, the proceedings of which are recorded pursuant to sections 1 and 2 of this 2017 Act, may  
21 receive in evidence, through the testimony of a peace officer involved in the criminal investigation  
22 under grand jury inquiry, the statement of:

23 (a) A person who cannot readily understand the proceedings, or who cannot communicate in the  
24 proceedings, because of a physical disability or developmental disability; or

25 (b) A victim under 18 years of age at the time of the proceedings.

26 **SECTION 14. ORS 132.080 is repealed.**

27 **SECTION 15. The Public Defense Services Commission, the Judicial Department and each**  
28 **county that begins recording grand jury proceedings under sections 1 and 2 of this 2017 Act**  
29 **on March 1, 2018, shall:**

30 (1) **Provide a preliminary report on the implementation of the recording requirement to**  
31 **the Emergency Board and the interim committees of the Legislative Assembly related to the**  
32 **judiciary, in the manner provided in ORS 192.245, no later than December 1, 2018.**

33 (2) **Provide a final report on the implementation of the recording requirement to the**  
34 **Joint Committee on Ways and Means and the committees of the Legislative Assembly related**  
35 **to the judiciary, in the manner provided in ORS 192.245, no later than February 1, 2019.**

36 **SECTION 16. In addition to and not in lieu of any other appropriation, there is appro-**  
37 **riated to the Judicial Department, for the biennium beginning July 1, 2017, out of the Gen-**  
38 **eral Fund, the amount of \$1,500,000, for the purchase of equipment and services and for other**  
39 **expenses necessary to carry out the provisions of this 2017 Act.**

40 **SECTION 17. (1) In addition to and not in lieu of any other appropriation, there is ap-**  
41 **propriated to the Emergency Board, for the biennium beginning July 1, 2017, out of the**  
42 **General Fund, the amount of \$8,500,000, to be allocated for expenses necessary to carry out**  
43 **the provisions of this 2017 Act.**

44 (2) **If any of the moneys appropriated by subsection (1) of this section are not allocated**  
45 **by the Emergency Board prior to December 1, 2018, the moneys remaining on that date be-**

1 come available for any purpose for which the Emergency Board lawfully may allocate funds.

2 **SECTION 18.** (1) Sections 1, 2 and 3 of this 2017 Act and the amendments to ORS 132.090,  
3 132.320, 132.550 and 135.405 by sections 4, 5, 7 and 8 of this 2017 Act become operative on  
4 March 1, 2018.

5 (2) The amendments to sections 1, 2 and 3 of this 2017 Act and ORS 132.090, 132.320 and  
6 132.430 by sections 6, 9, 10, 11, 12 and 13 of this 2017 Act and the repeal of ORS 132.080 by  
7 section 14 of this 2017 Act become operative on July 1, 2019.

8 (3) The Judicial Department may take any action before the operative dates specified in  
9 subsections (1) and (2) of this section that is necessary to enable the department to exercise  
10 the duties, functions and powers conferred on the department by this 2017 Act.

11 **SECTION 19.** This 2017 Act being necessary for the immediate preservation of the public  
12 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
13 on its passage.

14