

HB 3077-1  
(LC 3601)  
3/31/17 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3077**

1 On page 1 of the printed bill, line 2, delete “135.970” and insert  
2 “135.815”.

3 Delete lines 4 through 30 and insert:

4 **“SECTION 1.** ORS 135.815 is amended to read:

5 “135.815. (1) Except as otherwise provided in ORS 135.855 and 135.873, the  
6 district attorney shall disclose to a represented defendant the following ma-  
7 terial and information within the possession or control of the district attor-  
8 ney:

9 “(a) The names and addresses of persons whom the district attorney in-  
10 tends to call as witnesses at any stage of the trial, together with their rele-  
11 vant written or recorded statements or memoranda of any oral statements  
12 of such persons.

13 “(b) Any written or recorded statements or memoranda of any oral state-  
14 ments made by the defendant, or made by a codefendant if the trial is to be  
15 a joint one.

16 “(c) Any reports or statements of experts, made in connection with the  
17 particular case, including results of physical or mental examinations and of  
18 scientific tests, experiments or comparisons which the district attorney in-  
19 tends to offer in evidence at the trial.

20 “(d) Any books, papers, documents, photographs or tangible objects:

21 “(A) Which the district attorney intends to offer in evidence at the trial;

1 or

2 “(B) Which were obtained from or belong to the defendant.

3 “(e) If actually known to the district attorney, any record of prior criminal convictions of persons whom the district attorney intends to call as witnesses at the trial; and the district attorney shall make a good faith effort to determine if such convictions have occurred.

7 “(f) All prior convictions of the defendant known to the state that would affect the determination of the defendant’s criminal history for sentencing under rules of the Oregon Criminal Justice Commission.

10 “(g) Any material or information that tends to:

11 “(A) Exculpate the defendant;

12 “(B) Negate or mitigate the defendant’s guilt or punishment; or

13 “(C) Impeach a person the district attorney intends to call as a witness at the trial.

15 “(2)(a) The disclosure required by subsection (1)(g) of this section shall occur without delay after arraignment and prior to the entry of any guilty plea pursuant to an agreement with the state. If the existence of the material or information is not known at that time, the disclosure shall be made upon discovery without regard to whether the represented defendant has entered or agreed to enter a guilty plea.

21 “(b) Nothing in subsection (1)(g) of this section:

22 “(A) Expands any obligation under a statutory provision or the Oregon or United States Constitution to disclose, or right to disclosure of, personnel or internal affairs files of law enforcement officers.

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

28 “(3) Except as otherwise provided in ORS 135.855 and 135.873, in prosecutions for violation of ORS 813.010 in which an instrument was used to test a person’s breath, blood or urine to determine the alcoholic content of the

1 person's blood the district attorney shall disclose to a represented defendant  
2 at least the following material and information within the possession or  
3 control of the district attorney:

4 "(a) Any report prepared by a police officer relating to field tests, inter-  
5 views, observations and other information relating to the charged offense;

6 "(b) Any report relating to the test results;

7 "(c) A copy of the form provided to the defendant under ORS 813.100  
8 (3)(b); and

9 "(d) Any checklist prepared by the operator of the instrument for the test.

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

14 "(b) Notwithstanding paragraph (a) of this subsection, the district attor-  
15 ney shall disclose the personal identifiers of the victim and any witnesses if  
16 the trial court orders the disclosure. A trial court shall order the district  
17 attorney to disclose the personal identifiers of the victim and any witnesses  
18 if the trial court finds that:

19 "(A) The defendant has requested the information; and

20 "(B)(i) The victim or witness is a business or institution and disclosure  
21 of the information would not represent a risk of harm to the victim or wit-  
22 ness; or

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

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

29 "(b) The trial court shall order the lawyer, or representative of the law-  
30 yer, to disclose to the defendant the personal identifiers of a victim or wit-

1 ness if the court finds that:

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

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

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

8 “(6) As used in this section:

9 “(a) ‘Personal identifiers’ means:

10 “(A) **In relation to a witness, [a person’s] the witness’s** address, tele-  
11 phone number, Social Security number and date of birth and the identifying  
12 number of [a person’s] **the witness’s** depository account at a financial in-  
13 stitution, as defined in ORS 706.008, or credit card account.

14 “(B) **In relation to a victim, the victim’s address, electronic mail**  
15 **address, telephone number, Social Security number, date of birth, any**  
16 **user names or other identifying information associated with the**  
17 **victim’s social media accounts and the identifying number of the**  
18 **victim’s depository account at a financial institution, as defined in**  
19 **ORS 706.008, or credit card account.**

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

22 “(c) ‘Represented defendant’ means a defendant who is represented by a  
23 lawyer in a criminal action.

24 “(d) **‘Social media’ has the meaning given that term in ORS**  
25 **659A.330.”.**

26 On page 2, delete lines 1 through 15.

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