

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 505**

1 On page 1 of the printed A-engrossed bill, line 3, after “132.550” delete the
2 rest of the line and delete line 4 and insert “and 135.405; repealing ORS
3 132.080; and declaring an emergency.”.

4 Delete lines 6 through 17 and delete pages 2 through 22 and insert:

5 **“SECTION 1. (1)(a) The district attorney of a county comprising a
6 judicial district with a population between 150,000 and 300,000 or over
7 700,000 shall ensure that proceedings before the grand jury are re-
8 corded in the manner described in this section and section 2 of this
9 2017 Act.**

10 **“(b) The Chief Justice of the Supreme Court shall designate the
11 types of audio electronic recording devices suitable for recording grand
12 jury proceedings and may establish policies and procedures by rule or
13 order to carry out the provisions of this section and sections 2 and 3
14 of this 2017 Act.**

15 **“(c) The district attorney shall use to record the grand jury pro-
16 ceedings audio electronic recording devices designated, provided and
17 maintained by the Judicial Department.**

18 **“(2)(a) The district attorney shall delegate the recording of grand
19 jury proceedings to a grand juror and shall provide instruction to the
20 grand juror concerning the audio electronic recording equipment and
21 requirements of the recording.**

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

11 **“(c) The grand juror or shorthand reporter recording the pro-**
12 **ceedings is not subject to subpoena, and may not disclose any infor-**
13 **mation, concerning the grand jury proceedings without prior court**
14 **order.**

15 **“(3)(a) A failure of an audio electronic recording device to accu-**
16 **rately record all or part of a grand jury proceeding does not affect the**
17 **validity of any prosecution or indictment.**

18 **“(b) A failure of a grand juror to operate an audio electronic re-**
19 **coding device in a manner that accurately records all or part of a**
20 **grand jury proceeding, as required, does not affect the validity of any**
21 **prosecution or indictment.**

22 **“(c) A failure of a shorthand reporter to prepare accurate notes or**
23 **an accurate report of all or part of a grand jury proceeding, as re-**
24 **quired, does not affect the validity of any prosecution or indictment.**

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

28 **“SECTION 2. (1) Except as provided in subsection (2) of this section,**
29 **the grand juror described in section 1 (2)(a) of this 2017 Act, or the**
30 **shorthand reporter described in section 1 (2)(b) of this 2017 Act, who**

1 is recording grand jury proceedings in a judicial district with a popu-
2 lation between 150,000 and 300,000 or over 700,000 shall record all testi-
3 mony given before the grand jury, including:

4 “(a) The case name and number;

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

6 “(c) Each question asked of, and each response provided by, a wit-
7 ness appearing before the grand jury.

8 “(2) The grand juror operating the audio electronic recording device
9 or the shorthand reporter may not record:

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

11 “(b) A presentment made pursuant to ORS 132.370.

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

14 “(d) A procedure related to the production of records, or the un-
15 sealing of records, subpoenaed pursuant to ORS 136.583 and to be pre-
16 sented before the grand jury.

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

20 “SECTION 3. (1) Audio recordings and the notes or report of a
21 shorthand reporter produced pursuant to sections 1 and 2 of this 2017
22 Act in a judicial district with a population between 150,000 and 300,000
23 or over 700,000 are confidential and may not be released except as de-
24 scribed in this section.

25 “(2) When an indictment resulting from grand jury proceedings is
26 indorsed ‘a true bill,’ the audio recording or the notes or report of a
27 shorthand reporter of the grand jury proceedings may be released only
28 in the following manner:

29 “(a) The prosecuting attorney may access a copy of the audio re-
30 cording or the notes or report of a shorthand reporter at any time.

1 **“(b) When the defendant has been arraigned on the indictment and**
2 **is represented by an attorney, the district attorney shall:**

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

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

12 **“(c) Unless the court orders otherwise for good cause shown, the**
13 **prosecuting attorney and the defense attorney may not copy, dissemi-**
14 **inate or republish the audio recording, the notes or report of a short-**
15 **hand reporter, or a transcript prepared from the audio recording,**
16 **notes or report, released pursuant to this subsection, except to provide**
17 **a copy to an agent of the prosecuting attorney or defense attorney for**
18 **the limited purpose of case preparation. Unless a court orders other-**
19 **wise for good cause shown, in consulting with the defendant the de-**
20 **fense attorney may not disclose to the defendant:**

21 **“(A) Any personal identifiers of a victim, witness or grand juror**
22 **obtained from the audio recording, report, notes or transcript; or**

23 **“(B) Any portion of the audio recording, report, notes or transcript**
24 **that contains any personal identifiers of a victim, witness or grand**
25 **juror.**

26 **“(d) The defense attorney may not provide a copy of the audio re-**
27 **cording, notes or report, or a transcript prepared from the audio re-**
28 **coding, notes or report, to the defendant.**

29 **“(e) When the defendant has been arraigned but is not represented**
30 **by an attorney, the defendant may request by motion that the court**

1 issue an order allowing the defendant access to review the contents
2 of the audio recording or the notes or report of the shorthand repor-
3 ter. A copy of the motion must be provided to the prosecuting attor-
4 ney. The prosecuting attorney may request a hearing on the motion
5 within 10 days after receiving a copy. At the hearing, or in response
6 to receiving the motion, the court shall appoint counsel for the de-
7 fendant for the limited purpose of reviewing the audio recording, notes
8 or report and may set reasonable conditions on the review of the audio
9 recording, notes or report.

10 “(3)(a) When a grand jury inquires into the conduct of a public
11 servant as defined in ORS 162.005 for acts occurring in the perform-
12 ance of the public servant’s duties, and an indictment resulting from
13 the grand jury proceedings is indorsed ‘not a true bill’:

14 “(A) The public servant or the prosecuting attorney may file a mo-
15 tion requesting a court order releasing all or a portion of a transcript
16 of the grand jury proceedings. A copy of the motion must be served
17 on the opposing party. In deciding whether to issue such an order, the
18 court shall determine whether the public interest in disclosure out-
19 weighs the interest in maintaining the secrecy of the grand jury pro-
20 ceedings. If the court orders disclosure, the court may set reasonable
21 conditions on copying, disseminating or republishing the transcript.

22 “(B) A member of the public may file a motion requesting a court
23 order for production and release of a transcript of the grand jury
24 proceedings. A copy of the motion must be served on the prosecuting
25 attorney and the public servant’s attorney, or the public servant if the
26 public servant is not represented by an attorney. The person filing the
27 motion is responsible for the cost of producing the transcript and a
28 court order for production and release of the transcript must be con-
29 ditioned on receipt of payment. In deciding whether to issue such an
30 order, the court shall determine whether the public interest in disclo-

1 sure outweighs the interest in maintaining the secrecy of the grand
2 jury proceedings. If the court orders disclosure, the court may set
3 reasonable conditions on copying, disseminating or republishing the
4 transcript.

5 “(b) The release of any transcript under this subsection may not
6 include:

7 “(A) The release of any personal identifiers of a victim or witness;
8 or

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

11 “(4)(a) A motion for a protective order concerning an audio re-
12 cording, the notes or report of a shorthand reporter or a transcript
13 of grand jury proceedings may be filed as follows:

14 “(A) The prosecuting attorney may file a motion for a protective
15 order within 10 days after the defendant’s arraignment on the
16 indictment. The motion may be filed on behalf of a victim or a wit-
17 ness. The prosecuting attorney shall inform the victim of the ability
18 to seek a protective order.

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

22 “(C) The prosecuting attorney, the public servant who is the subject
23 of an indictment indorsed ‘not a true bill’ or the public servant’s at-
24 torney may file a motion for a protective order within 10 days of re-
25 ceiving a motion described in subsection (3)(a) of this section.

26 “(b) If the motion for a protective order requests that a portion of
27 the audio recording, notes, report or transcript be redacted, the mo-
28 tion must be accompanied by a specific description, including the date
29 and time, of the portion of the audio recording, notes, report or tran-
30 script to be redacted.

1 “(c) In response to a motion filed under this subsection, the court
2 may order that the access of the person requesting release to a copy
3 of the audio recording, notes, report or transcript be denied, restricted
4 or deferred, or may make any other order, upon a finding of substan-
5 tial and compelling circumstances. In deciding whether to grant the
6 motion and enter a protective order under this paragraph, the court
7 may consider the following:

8 “(A) Protection of witnesses and others from physical harm, threats
9 of harm, bribes, economic interference, reprisal and other forms of
10 intimidation;

11 “(B) Maintenance of secrecy regarding informants, as required for
12 effective investigation of criminal activity;

13 “(C) Confidential information recognized under law, including the
14 protection of confidential relationships and privileges and the contents
15 of confidential records unrelated to a crime alleged in the indictment;
16 and

17 “(D) Any other relevant considerations.

18 “(d) The court may permit the evidence of substantial and compel-
19 ling circumstances described in paragraph (c) of this subsection to be
20 made in the form of a written statement to be inspected by the court
21 only or by oral testimony given on the record.

22 “(5)(a) Except as provided in paragraph (b) of this subsection, when
23 grand jury proceedings do not result in an indictment indorsed as ei-
24 ther ‘a true bill’ or ‘not a true bill,’ the audio recording or notes or
25 report of the shorthand reporter produced pursuant to sections 1 and
26 2 of this 2017 Act may not be disclosed or released.

27 “(b) When subsequent grand jury proceedings occur inquiring into
28 the same criminal episode as the grand jury proceedings described in
29 paragraph (a) of this subsection, and the subsequent proceedings re-
30 sult in an indictment indorsed as ‘a true bill,’ the prosecuting attorney

1 shall provide notice to the person charged in the indictment of the
2 occurrence of the earlier grand jury proceedings. After the person is
3 arraigned on the indictment and the time period described in sub-
4 section (2)(b) of this section has passed, the audio recording or the
5 notes or report of the shorthand reporter produced during the earlier
6 grand jury proceedings may be obtained in the manner set forth in
7 subsection (2) of this section.

8 “(c) As used in this subsection, ‘criminal episode’ has the meaning
9 given that term in ORS 131.505.

10 “(6) The district attorney of each county may establish a fee for the
11 cost of providing a copy of any audio recording, or the notes or report
12 of a shorthand reporter, of a grand jury proceeding to a person re-
13 questing a copy under this section.

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

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

19 “(b) May not be used to challenge the indorsement of an indictment
20 ‘a true bill’ or the proceedings that led to the indorsement.

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

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

27 “(e) May be submitted to the court and used as evidence for a
28 hearing on a protective order described in subsection (4) of this sec-
29 tion.

30 “(8) The release of audio recordings, shorthand reporter notes or

1 reports or transcripts of grand jury proceedings under this section
2 does not affect discovery obligations under ORS 135.805 to 135.873.

3 “(9) As used in this section:

4 “(a) ‘Personal identifiers’ means:

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

10 “(B) In relation to a victim, the victim’s address, electronic mail
11 address, telephone number, driver license, vehicle registration infor-
12 mation, Social Security number, date of birth, any user names or
13 other identifying information associated with the victim’s social media
14 accounts and the identifying number of the victim’s depository ac-
15 count at a financial institution, as defined in ORS 706.008, or credit
16 card account.

17 “(b) ‘Social media’ has the meaning given that term in ORS
18 659A.330.

19 “SECTION 4. ORS 132.090 is amended to read:

20 “132.090. (1) Except as provided in subsections (2) and (3) of this section
21 and sections 1 and 2 of this 2017 Act, no person other than the district
22 attorney or a witness actually under examination shall be present during the
23 sittings of the grand jury.

24 “(2) Upon a motion filed by the district attorney in the circuit court, the
25 circuit judge may appoint a reporter who shall attend the sittings of the
26 grand jury to take and report the testimony in any matters pending before
27 the grand jury, and may appoint a parent, guardian or other appropriate
28 person 18 years of age or older to accompany any child 12 years of age or
29 younger, or any person with an intellectual disability, during an appearance
30 before the grand jury. The circuit judge, upon the district attorney’s showing

1 to the court that it is necessary for the proper examination of a witness
2 appearing before the grand jury, may appoint a guard, medical or other spe-
3 cial attendant or nurse, who shall be present in the grand jury room and
4 shall attend such sittings.

5 “(3) The district attorney may designate an interpreter who is certified
6 under ORS 45.291 to interpret the testimony of witnesses appearing before
7 the grand jury. The district attorney may designate a qualified interpreter,
8 as defined in ORS 45.288, if the circuit court determines that a certified in-
9 terpreter is not available and that the person designated by the district at-
10 torney is a qualified interpreter as defined in ORS 45.288. An interpreter
11 designated under this subsection may be present in the grand jury room and
12 attend the sittings of the grand jury.

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

15 “(5) As used in this section, ‘intellectual disability’ has the meaning given
16 that term in ORS 427.005. Intellectual disability may be shown by attaching
17 to the motion of the district attorney:

18 “(a) Documentary evidence of intellectual functioning; or

19 “(b) The affidavit of a qualified person familiar with the person with an
20 intellectual disability. ‘Qualified person’ includes, but is not limited to, a
21 teacher, therapist or physician.

22 **“SECTION 5.** ORS 132.320 is amended to read:

23 “132.320. (1) Except as provided in subsections (2) to [(12)] **(13)** of this
24 section, in the investigation of a charge for the purpose of indictment, the
25 grand jury shall receive no other evidence than such as might be given on
26 the trial of the person charged with the crime in question.

27 “(2) A report or a copy of a report made by a physicist, chemist, medical
28 examiner, physician, firearms identification expert, examiner of questioned
29 documents, fingerprint technician, or an expert or technician in some com-
30 parable scientific or professional field, concerning the results of an exam-

1 ination, comparison or test performed by such person in connection with a
2 case which is the subject of a grand jury proceeding, shall, when certified
3 by such person as a report made by such person or as a true copy thereof,
4 be received in evidence in the grand jury proceeding.

5 “(3) An affidavit of a witness who is unable to appear before the grand
6 jury shall be received in evidence in the grand jury proceeding if, upon ap-
7 plication by the district attorney, the presiding judge for the judicial district
8 in which the grand jury is sitting authorizes the receipt after good cause has
9 been shown for the witness’ inability to appear. An affidavit taken in an-
10 other state or territory of the United States, the District of Columbia or in
11 a foreign country must be authenticated as provided in ORS chapter 194 be-
12 fore it can be used in this state.

13 “(4) A grand jury that is investigating a charge of criminal driving while
14 suspended or revoked under ORS 811.182 may receive in evidence an affidavit
15 of a peace officer with a report or copy of a report of the peace officer con-
16 cerning the peace officer’s investigation of the violation of ORS 811.182 by
17 the defendant.

18 “(5) A grand jury may receive testimony of a witness by means of simul-
19 taneous television transmission allowing the grand jury and district attorney
20 to observe and communicate with the witness and the witness to observe and
21 communicate with the grand jury and the district attorney.

22 “(6) A grand jury that is investigating a charge of failure to appear under
23 ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit
24 of a court employee certifying that the defendant failed to appear as required
25 by law and setting forth facts sufficient to support that conclusion.

26 “(7)(a) Except as otherwise provided in this subsection, a grand jury may
27 receive in evidence through the testimony of one peace officer involved in
28 the criminal investigation under grand jury inquiry information from an of-
29 ficial report of another peace officer involved in the same criminal investi-
30 gation concerning the other peace officer’s investigation of the matter before

1 the grand jury. The statement of a person suspected of committing an offense
2 or inadmissible hearsay of persons other than the peace officer who compiled
3 the official report may not be presented to a grand jury under this para-
4 graph.

5 “(b) If the official report contains evidence other than chain of custody,
6 venue or the name of the person suspected of committing an offense, the
7 grand jurors must be notified that the evidence is being submitted by report
8 and that the peace officer who compiled the report will be made available
9 for testimony at the request of the grand jury. When a grand jury requests
10 the testimony of a peace officer under this paragraph, the peace officer may
11 present sworn testimony by telephone if requiring the peace officer’s pres-
12 ence before the grand jury would constitute an undue hardship on the peace
13 officer or the agency that employs or utilizes the peace officer.

14 “(8) A grand jury that is investigating a charge of failure to report as a
15 sex offender under ORS 163A.040 may receive in evidence certified copies of
16 the form required by ORS 163A.050 (2) and sex offender registration forms
17 and an affidavit of a representative of the Oregon State Police, as keepers
18 of the state’s sex offender registration records, certifying that the certified
19 copies of the forms constitute the complete record for the defendant.

20 “(9) The grand jury shall weigh all the evidence submitted to it; and when
21 it believes that other evidence within its reach will explain away the charge,
22 it should order such evidence to be produced, and for that purpose may re-
23 quire the district attorney to issue process for the witnesses.

24 “(10) A grand jury that is investigating a charge of driving while under
25 the influence of intoxicants in violation of ORS 813.010 may receive in evi-
26 dence an affidavit of a peace officer regarding any or all of the following:

27 “(a) Whether the defendant was driving.

28 “(b) Whether the defendant took or refused to take tests under any pro-
29 vision of ORS chapter 813.

30 “(c) The administration of tests under any provision of ORS chapter 813

1 and the results of such tests.

2 “(d) The officer’s observations of physical or mental impairment of the
3 defendant.

4 “(11)(a) A grand jury may receive in evidence an affidavit of a represen-
5 tative of a financial institution for the purpose of authenticating records of
6 the financial institution.

7 “(b) As used in this subsection, ‘financial institution’ means a financial
8 institution as defined in ORS 706.008, an entity that regularly issues, pro-
9 cesses or services credit cards or any other comparable entity that regularly
10 produces financial records.

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

18 “(b) A district attorney is not obligated to inform a defendant that a
19 grand jury proceeding investigating charges against the defendant is pend-
20 ing, in progress or about to occur.

21 “(c) Upon receipt of the written notice described in paragraph (a) of this
22 subsection, the district attorney shall provide in writing the date, time and
23 location of the defendant’s appearance before the grand jury to the defense
24 attorney at the indicated electronic mail address. In the event of a schedul-
25 ing conflict, the district attorney shall reasonably accommodate the sched-
26 ules of the defendant and the defense attorney if the accommodation does
27 not delay the grand jury proceeding beyond the time limit for holding a
28 preliminary hearing described in ORS 135.070 (2).

29 “(d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection,
30 in order to accommodate a scheduling conflict, upon the request of the de-

1 fendant the time limit for holding a preliminary hearing described in ORS
2 135.070 (2) may be extended by a maximum of an additional five judicial days
3 and the district attorney and the defendant may stipulate to an extension
4 of greater duration. During a period of delay caused by a scheduling conflict
5 under this subsection, ORS 135.230 to 135.290 shall continue to apply con-
6 cerning the custody status of the defendant.

7 “(13) A grand jury in a judicial district with a population between
8 150,000 and 300,000 or over 700,000, the proceedings of which are re-
9 corded pursuant to sections 1 and 2 of this 2017 Act, may receive in
10 evidence, through the testimony of a peace officer involved in the
11 criminal investigation under grand jury inquiry, the statement of:

12 “(a) A person who cannot readily understand the proceedings, or
13 who cannot communicate in the proceedings, because of a physical
14 disability or developmental disability; or

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

16 “SECTION 6. ORS 132.430 is amended to read:

17 “132.430. (1) When a person has been held to answer a criminal charge
18 and the indictment in relation thereto is not found ‘a true bill,’ *[it]* **the**
19 **indictment** must be indorsed ‘not a true bill,’ which indorsement must be
20 signed by the foreman and filed with the clerk of the court, in whose office
21 it shall remain a public record. In the case of an indictment not found ‘a true
22 bill’ against a person *[not so held, the same, together with the minutes of the*
23 *evidence in relation thereto,]* **who has not been held to answer a criminal**
24 **charge, the indictment** must be destroyed by the grand jury.

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

29 “SECTION 7. ORS 132.550 is amended to read:

30 “132.550. The indictment shall contain substantially the following:

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

2 “(2) The title of the action;

3 “(3) A statement that the grand jury accuses the defendant or defendants
4 of the designated offense or offenses;

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

7 “(5) A statement in each count that the offense charged therein was
8 committed in a designated county;

9 “(6) A statement in each count that the offense charged therein was
10 committed on, or on or about, a designated date, or during a designated pe-
11 riod of time;

12 “(7) A statement of the acts constituting the offense in ordinary and
13 concise language, without repetition, and in such manner as to enable a
14 person of common understanding to know what is intended;

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

17 “[8] (9) The signatures of the foreman and of the district attorney; and

18 “[9] (10) The date the indictment is filed with the clerk of the court.

19 “**SECTION 8.** ORS 135.405 is amended to read:

20 “135.405. (1) In cases in which it appears that the interest of the public
21 in the effective administration of criminal justice would thereby be served,
22 and in accordance with the criteria set forth in ORS 135.415, the district
23 attorney may engage in plea discussions for the purpose of reaching a plea
24 agreement.

25 “(2) The district attorney shall engage in plea discussions or reach a plea
26 agreement with the defendant only through defense counsel, except when, as
27 a matter of record, the defendant has effectively waived the right of the de-
28 fendant to counsel or, if the defendant is not eligible for appointed counsel,
29 has not retained counsel.

30 “(3) The district attorney in reaching a plea agreement may agree to, but

1 is not limited to, one or more of the following, as required by the circum-
2 stances of the individual case:

3 “(a) To make or not to oppose favorable recommendations as to the sen-
4 tence which should be imposed if the defendant enters a plea of guilty or no
5 contest to the offense charged;

6 “(b) To seek or not to oppose dismissal of the offense charged if the de-
7 fendant enters a plea of guilty or no contest to another offense reasonably
8 related to the defendant’s conduct; or

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

12 “(4) Similarly situated defendants should be afforded equal plea agreement
13 opportunities.

14 “(5) The district attorney may not condition a plea offer on a requirement
15 that the defendant waive:

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

17 “(b) **The ability to receive the audio recording of grand jury pro-**
18 **ceedings as permitted under section 3 of this 2017 Act, if the**
19 **indictment has been indorsed ‘a true bill.’**

20 “(6)(a) A district attorney may provide a plea offer and agreed disposition
21 recommendation to the defendant at the time of arraignment or first ap-
22 pearance of the defendant for a crime in open court under an early disposi-
23 tion program established under ORS 135.941.

24 “(b) Unless extended by the court, a plea offer and agreed disposition
25 recommendation made under paragraph (a) of this subsection expire upon
26 completion of the arraignment. Except for good cause, a court may not ex-
27 tend a plea offer and agreed disposition recommendation under this para-
28 graph for more than seven days for a misdemeanor or 21 days for a felony.

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

30 “**Sec. 1.** (1)(a) The district attorney of a county [*comprising a judicial*

1 *district with a population between 150,000 and 300,000 or over 700,000*] shall
2 ensure that proceedings before the grand jury are recorded in the manner
3 described in this section and section 2 of this 2017 Act.

4 “(b) The Chief Justice of the Supreme Court shall designate the types of
5 audio electronic recording devices suitable for recording grand jury pro-
6 ceedings and may establish policies and procedures by rule or order to carry
7 out the provisions of this section and sections 2 and 3 of this 2017 Act.

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

11 “(2)(a) The district attorney shall delegate the recording of grand jury
12 proceedings to a grand juror and shall provide instruction to the grand juror
13 concerning the audio electronic recording equipment and requirements of the
14 recording.

15 “(b) Notwithstanding paragraph (a) of this subsection, the court may,
16 upon request of the prosecuting attorney, appoint a certified shorthand re-
17 porter as defined in ORS 8.415 or a shorthand reporter certified by a national
18 certification association, who shall be permitted to attend all proceedings
19 of the grand jury for the purpose of taking accurate notes. The shorthand
20 reporter’s services shall be paid for by the prosecuting attorney. The short-
21 hand reporter shall be sworn to correctly report the proceedings of the grand
22 jury described in section 2 of this 2017 Act and to keep secret any informa-
23 tion concerning the grand jury proceedings.

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

27 “(3)(a) A failure of an audio electronic recording device to accurately re-
28 cord all or part of a grand jury proceeding does not affect the validity of any
29 prosecution or indictment.

30 “(b) A failure of a grand juror to operate an audio electronic recording

1 device in a manner that accurately records all or part of a grand jury pro-
2 ceeding, as required, does not affect the validity of any prosecution or
3 indictment.

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

7 “(4) This section and section 2 of this 2017 Act do not apply to grand jury
8 proceedings under ORS 132.440 that inquire into the condition and manage-
9 ment of correctional facilities and youth correction facilities.

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

11 **“Sec. 2.** (1) Except as provided in subsection (2) of this section, the grand
12 juror described in section 1 (2)(a) of this 2017 Act, or the shorthand reporter
13 described in section 1 (2)(b) of this 2017 Act, who is recording grand jury
14 proceedings [*in a judicial district with a population between 150,000 and*
15 *300,000 or over 700,000*] shall record all testimony given before the grand jury,
16 including:

17 “(a) The case name and number;

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

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

21 “(2) The grand juror operating the audio electronic recording device or
22 the shorthand reporter may not record:

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

24 “(b) A presentment made pursuant to ORS 132.370.

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

27 “(d) A procedure related to the production of records, or the unsealing
28 of records, subpoenaed pursuant to ORS 136.583 and to be presented before
29 the grand jury.

30 “(3) The district attorney shall maintain the audio recordings, or report

1 of the shorthand reporter, produced pursuant to this section and section 1
2 of this 2017 Act.

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

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

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

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

14 “(b) When the defendant has been arraigned on the indictment and is re-
15 presented by an attorney, the district attorney shall:

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

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

24 “(c) Unless the court orders otherwise for good cause shown, the prose-
25 cuting attorney and the defense attorney may not copy, disseminate or re-
26 publish the audio recording, the notes or report of a shorthand reporter, or
27 a transcript prepared from the audio recording, notes or report, released
28 pursuant to this subsection, except to provide a copy to an agent of the
29 prosecuting attorney or defense attorney for the limited purpose of case
30 preparation. Unless a court orders otherwise for good cause shown, in con-

1 sulting with the defendant the defense attorney may not disclose to the de-
2 fendant:

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

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

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

10 “(e) When the defendant has been arraigned but is not represented by an
11 attorney, the defendant may request by motion that the court issue an order
12 allowing the defendant access to review the contents of the audio recording
13 or the notes or report of the shorthand reporter. A copy of the motion must
14 be provided to the prosecuting attorney. The prosecuting attorney may re-
15 quest a hearing on the motion within 10 days after receiving a copy. At the
16 hearing, or in response to receiving the motion, the court shall appoint
17 counsel for the defendant for the limited purpose of reviewing the audio re-
18 cording, notes or report and may set reasonable conditions on the review of
19 the audio recording, notes or report.

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

24 “(A) The public servant or the prosecuting attorney may file a motion
25 requesting a court order releasing all or a portion of a transcript of the
26 grand jury proceedings. A copy of the motion must be served on the opposing
27 party. In deciding whether to issue such an order, the court shall determine
28 whether the public interest in disclosure outweighs the interest in main-
29 taining the secrecy of the grand jury proceedings. If the court orders dis-
30 closure, the court may set reasonable conditions on copying, disseminating

1 or republishing the transcript.

2 “(B) A member of the public may file a motion requesting a court order
3 for production and release of a transcript of the grand jury proceedings. A
4 copy of the motion must be served on the prosecuting attorney and the public
5 servant’s attorney, or the public servant if the public servant is not repres-
6 ented by an attorney. The person filing the motion is responsible for the cost
7 of producing the transcript and a court order for production and release of
8 the transcript must be conditioned on receipt of payment. In deciding
9 whether to issue such an order, the court shall determine whether the public
10 interest in disclosure outweighs the interest in maintaining the secrecy of
11 the grand jury proceedings. If the court orders disclosure, the court may set
12 reasonable conditions on copying, disseminating or republishing the tran-
13 script.

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

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

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

17 “(4)(a) A motion for a protective order concerning an audio recording, the
18 notes or report of a shorthand reporter or a transcript of grand jury pro-
19 ceedings may be filed as follows:

20 “(A) The prosecuting attorney may file a motion for a protective order
21 within 10 days after the defendant’s arraignment on the indictment. The
22 motion may be filed on behalf of a victim or a witness. The prosecuting at-
23 torney 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
25 within 10 days after receiving a motion described in subsection (2)(e) of this
26 section.

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

1 “(b) If the motion for a protective order requests that a portion of the
2 audio recording, notes, report or transcript be redacted, the motion must be
3 accompanied by a specific description, including the date and time, of the
4 portion of the audio recording, notes, report or transcript to be redacted.

5 “(c) In response to a motion filed under this subsection, the court may
6 order that the access of the person requesting release to a copy of the audio
7 recording, notes, report or transcript be denied, restricted or deferred, or may
8 make any other order, upon a finding of substantial and compelling circum-
9 stances. In deciding whether to grant the motion and enter a protective order
10 under this paragraph, the court may consider the following:

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

13 “(B) Maintenance of secrecy regarding informants, as required for effec-
14 tive investigation of criminal activity;

15 “(C) Confidential information recognized under law, including the pro-
16 tection of confidential relationships and privileges and the contents of con-
17 fidential records unrelated to a crime alleged in the indictment; and

18 “(D) Any other relevant considerations.

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

23 “(5)(a) Except as provided in paragraph (b) of this subsection, when grand
24 jury proceedings do not result in an indictment indorsed as either ‘a true
25 bill’ or ‘not a true bill,’ the audio recording or notes or report of the short-
26 hand reporter produced pursuant to sections 1 and 2 of this 2017 Act may
27 not be disclosed or released.

28 “(b) When subsequent grand jury proceedings occur inquiring into the
29 same criminal episode as the grand jury proceedings described in paragraph
30 (a) of this subsection, and the subsequent proceedings result in an indictment

1 indorsed as ‘a true bill,’ the prosecuting attorney shall provide notice to the
2 person charged in the indictment of the occurrence of the earlier grand jury
3 proceedings. After the person is arraigned on the indictment and the time
4 period described in subsection (2)(b) of this section has passed, the audio
5 recording or the notes or report of the shorthand reporter produced during
6 the earlier grand jury proceedings may be obtained in the manner set forth
7 in subsection (2) of this section.

8 “(c) As used in this subsection, ‘criminal episode’ has the meaning given
9 that term in ORS 131.505.

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

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

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

19 “(b) May not be used to challenge the indorsement of an indictment ‘a
20 true bill’ or the proceedings that led to the indorsement.

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

24 “(d) May be used as evidence in a proceeding for contempt of court
25 against a person alleged to have violated the terms of a court order con-
26 cerning the audio recording, notes, report or transcript.

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

29 “(8) The release of audio recordings, shorthand reporter notes or reports
30 or transcripts of grand jury proceedings under this section does not affect

1 discovery obligations under ORS 135.805 to 135.873.

2 “(9) As used in this section:

3 “(a) ‘Personal identifiers’ means:

4 “(A) In relation to a witness or a grand juror, the person’s address, tele-
5 phone number, driver license, vehicle registration information, Social Secu-
6 rity number, date of birth and the identifying number of the person’s
7 depository account at a financial institution, as defined in ORS 706.008, or
8 credit card account.

9 “(B) In relation to a victim, the victim’s address, electronic mail address,
10 telephone number, driver license, vehicle registration information, Social
11 Security number, date of birth, any user names or other identifying infor-
12 mation associated with the victim’s social media accounts and the identifying
13 number of the victim’s depository account at a financial institution, as de-
14 fined in ORS 706.008, or credit card account.

15 “(b) ‘Social media’ has the meaning given that term in ORS 659A.330.

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

18 “132.090. (1) Except as provided in subsections (2) and (3) of this section
19 and sections 1 and 2 of this 2017 Act, no person other than the district at-
20 torney or a witness actually under examination shall be present during the
21 sittings of the grand jury.

22 “(2) Upon a motion filed by the district attorney in the circuit court, the
23 circuit judge may appoint [*a reporter who shall attend the sittings of the*
24 *grand jury to take and report the testimony in any matters pending before the*
25 *grand jury, and may appoint]* a parent, guardian or other appropriate person
26 18 years of age or older to accompany any child 12 years of age or younger,
27 or any person with an intellectual disability, during an appearance before
28 the grand jury. The circuit judge, upon the district attorney’s showing to the
29 court that it is necessary for the proper examination of a witness appearing
30 before the grand jury, may appoint a guard, medical or other special at-

1 tendant or nurse, who shall be present in the grand jury room and shall at-
2 tend such sittings.

3 “(3) The district attorney may designate an interpreter who is certified
4 under ORS 45.291 to interpret the testimony of witnesses appearing before
5 the grand jury. The district attorney may designate a qualified interpreter,
6 as defined in ORS 45.288, if the circuit court determines that a certified in-
7 terpreter is not available and that the person designated by the district at-
8 torney is a qualified interpreter as defined in ORS 45.288. An interpreter
9 designated under this subsection may be present in the grand jury room and
10 attend the sittings of the grand jury.

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

13 “(5) As used in this section, ‘intellectual disability’ has the meaning given
14 that term in ORS 427.005. Intellectual disability may be shown by attaching
15 to the motion of the district attorney:

16 “(a) Documentary evidence of intellectual functioning; or

17 “(b) The affidavit of a qualified person familiar with the person with an
18 intellectual disability. ‘Qualified person’ includes, but is not limited to, a
19 teacher, therapist or physician.

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

22 “132.320. (1) Except as provided in subsections (2) to (13) of this section,
23 in the investigation of a charge for the purpose of indictment, the grand jury
24 shall receive no other evidence than such as might be given on the trial of
25 the person charged with the crime in question.

26 “(2) A report or a copy of a report made by a physicist, chemist, medical
27 examiner, physician, firearms identification expert, examiner of questioned
28 documents, fingerprint technician, or an expert or technician in some com-
29 parable scientific or professional field, concerning the results of an exam-
30 ination, comparison or test performed by such person in connection with a

1 case which is the subject of a grand jury proceeding, shall, when certified
2 by such person as a report made by such person or as a true copy thereof,
3 be received in evidence in the grand jury proceeding.

4 “(3) An affidavit of a witness who is unable to appear before the grand
5 jury shall be received in evidence in the grand jury proceeding if, upon ap-
6 plication by the district attorney, the presiding judge for the judicial district
7 in which the grand jury is sitting authorizes the receipt after good cause has
8 been shown for the witness’ inability to appear. An affidavit taken in an-
9 other state or territory of the United States, the District of Columbia or in
10 a foreign country must be authenticated as provided in ORS chapter 194 be-
11 fore it can be used in this state.

12 “(4) A grand jury that is investigating a charge of criminal driving while
13 suspended or revoked under ORS 811.182 may receive in evidence an affidavit
14 of a peace officer with a report or copy of a report of the peace officer con-
15 cerning the peace officer’s investigation of the violation of ORS 811.182 by
16 the defendant.

17 “(5) A grand jury may receive testimony of a witness by means of simul-
18 taneous television transmission allowing the grand jury and district attorney
19 to observe and communicate with the witness and the witness to observe and
20 communicate with the grand jury and the district attorney.

21 “(6) A grand jury that is investigating a charge of failure to appear under
22 ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit
23 of a court employee certifying that the defendant failed to appear as required
24 by law and setting forth facts sufficient to support that conclusion.

25 “(7)(a) Except as otherwise provided in this subsection, a grand jury may
26 receive in evidence through the testimony of one peace officer involved in
27 the criminal investigation under grand jury inquiry information from an of-
28 ficial report of another peace officer involved in the same criminal investi-
29 gation concerning the other peace officer’s investigation of the matter before
30 the grand jury. The statement of a person suspected of committing an offense

1 or inadmissible hearsay of persons other than the peace officer who compiled
2 the official report may not be presented to a grand jury under this para-
3 graph.

4 “(b) If the official report contains evidence other than chain of custody,
5 venue or the name of the person suspected of committing an offense, the
6 grand jurors must be notified that the evidence is being submitted by report
7 and that the peace officer who compiled the report will be made available
8 for testimony at the request of the grand jury. When a grand jury requests
9 the testimony of a peace officer under this paragraph, the peace officer may
10 present sworn testimony by telephone if requiring the peace officer’s pres-
11 ence before the grand jury would constitute an undue hardship on the peace
12 officer or the agency that employs or utilizes the peace officer.

13 “(8) A grand jury that is investigating a charge of failure to report as a
14 sex offender under ORS 163A.040 may receive in evidence certified copies of
15 the form required by ORS 163A.050 (2) and sex offender registration forms
16 and an affidavit of a representative of the Oregon State Police, as keepers
17 of the state’s sex offender registration records, certifying that the certified
18 copies of the forms constitute the complete record for the defendant.

19 “(9) The grand jury shall weigh all the evidence submitted to it; and when
20 it believes that other evidence within its reach will explain away the charge,
21 it should order such evidence to be produced, and for that purpose may re-
22 quire the district attorney to issue process for the witnesses.

23 “(10) A grand jury that is investigating a charge of driving while under
24 the influence of intoxicants in violation of ORS 813.010 may receive in evi-
25 dence an affidavit of a peace officer regarding any or all of the following:

26 “(a) Whether the defendant was driving.

27 “(b) Whether the defendant took or refused to take tests under any pro-
28 vision of ORS chapter 813.

29 “(c) The administration of tests under any provision of ORS chapter 813
30 and the results of such tests.

1 “(d) The officer’s observations of physical or mental impairment of the
2 defendant.

3 “(11)(a) A grand jury may receive in evidence an affidavit of a represen-
4 tative of a financial institution for the purpose of authenticating records of
5 the financial institution.

6 “(b) As used in this subsection, ‘financial institution’ means a financial
7 institution as defined in ORS 706.008, an entity that regularly issues, pro-
8 cesses or services credit cards or any other comparable entity that regularly
9 produces financial records.

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

17 “(b) A district attorney is not obligated to inform a defendant that a
18 grand jury proceeding investigating charges against the defendant is pend-
19 ing, in progress or about to occur.

20 “(c) Upon receipt of the written notice described in paragraph (a) of this
21 subsection, the district attorney shall provide in writing the date, time and
22 location of the defendant’s appearance before the grand jury to the defense
23 attorney at the indicated electronic mail address. In the event of a schedul-
24 ing conflict, the district attorney shall reasonably accommodate the sched-
25 ules of the defendant and the defense attorney if the accommodation does
26 not delay the grand jury proceeding beyond the time limit for holding a
27 preliminary hearing described in ORS 135.070 (2).

28 “(d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection,
29 in order to accommodate a scheduling conflict, upon the request of the de-
30 fendant the time limit for holding a preliminary hearing described in ORS

1 135.070 (2) may be extended by a maximum of an additional five judicial days
2 and the district attorney and the defendant may stipulate to an extension
3 of greater duration. During a period of delay caused by a scheduling conflict
4 under this subsection, ORS 135.230 to 135.290 shall continue to apply con-
5 cerning the custody status of the defendant.

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

11 “(a) A person who cannot readily understand the proceedings, or who
12 cannot communicate in the proceedings, because of a physical disability or
13 developmental disability; or

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

15 **“SECTION 14. ORS 132.080 is repealed.**

16 **“SECTION 15. The Public Defense Services Commission, the Judi-
17 cial Department and each county that begins recording grand jury
18 proceedings under sections 1 and 2 of this 2017 Act on March 1, 2018,
19 shall:**

20 **“(1) Provide a preliminary report on the implementation of the re-
21 cording requirement to the Emergency Board and the interim com-
22 mittees of the Legislative Assembly related to the judiciary, in the
23 manner provided in ORS 192.245, no later than December 1, 2018.**

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

28 **“SECTION 16. In addition to and not in lieu of any other appropri-
29 ation, there is appropriated to the Judicial Department, for the
30 biennium beginning July 1, 2017, out of the General Fund, the amount**

1 of \$1,500,000, for the purchase of equipment and services and for other
2 expenses necessary to carry out the provisions of this 2017 Act.

3 **“SECTION 17. (1) In addition to and not in lieu of any other ap-**
4 **propriation, there is appropriated to the Emergency Board, for the**
5 **biennium beginning July 1, 2017, out of the General Fund, the amount**
6 **of \$8,500,000, to be allocated for expenses necessary to carry out the**
7 **provisions of this 2017 Act.**

8 **“(2) If any of the moneys appropriated by subsection (1) of this**
9 **section are not allocated by the Emergency Board prior to December**
10 **1, 2018, the moneys remaining on that date become available for any**
11 **purpose for which the Emergency Board lawfully may allocate funds.**

12 **“SECTION 18. (1) Sections 1, 2 and 3 of this 2017 Act and the**
13 **amendments to ORS 132.090, 132.320, 132.550 and 135.405 by sections 4,**
14 **5, 7 and 8 of this 2017 Act become operative on March 1, 2018.**

15 **“(2) The amendments to sections 1, 2 and 3 of this 2017 Act and ORS**
16 **132.090, 132.320 and 132.430 by sections 6, 9, 10, 11, 12 and 13 of this 2017**
17 **Act and the repeal of ORS 132.080 by section 14 of this 2017 Act become**
18 **operative on July 1, 2019.**

19 **“(3) The Judicial Department may take any action before the oper-**
20 **ative dates specified in subsections (1) and (2) of this section that is**
21 **necessary to enable the department to exercise the duties, functions**
22 **and powers conferred on the department by this 2017 Act.**

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

26