

A-Engrossed
Senate Bill 597

Ordered by the Senate April 10
Including Senate Amendments dated April 10

Sponsored by Senator TAYLOR, Representative STARK; Senator MANNING JR (Pre-session filed.)

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.

Authorizes use of pseudonym, initials or other signifier instead of name of [*witness or*] victim, **or witness if witness is also victim**, in indictment when specified requirements are met. [*Limits disclosure*] **Provides for confidentiality** of document containing name of witness or victim **until entry of final judgment on case unless court orders otherwise based on finding of good cause.**

A BILL FOR AN ACT

Relating to indictments; amending ORS 132.540, 132.580 and 135.510.

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

SECTION 1. ORS 132.540 is amended to read:

132.540. (1) The indictment is sufficient if it can be understood therefrom that:

(a) The defendant is named, or if the name of the defendant cannot be discovered, that the defendant is described by a fictitious name, with the statement that the real name of the defendant is to the jury unknown.

(b) The crime was committed within the jurisdiction of the court, except where, as provided by law, the act, though done without the county in which the court is held, is triable therein.

(c) The crime was committed at some time prior to the finding of the indictment and within the time limited by law for the commencement of an action therefor.

(2) Except as provided in ORS 136.765 (1) and subsection (3) of this section, the indictment may not contain allegations that the defendant has previously been convicted of the violation of any statute that may subject the defendant to enhanced penalties.

(3) The indictment must allege that the defendant has previously been convicted of an offense when the previous conviction constitutes a material element of the charged offense.

(4) Words used in a statute to define a crime need not be strictly pursued in the indictment, but other words conveying the same meaning may be used.

(5)(a) An indictment may include a pseudonym, initials or another signifier instead of the name of a victim if:

(A) At least one of the crimes alleged to have been committed against the victim in the indictment is a sex crime as defined in ORS 163A.005;

(B) A separate document containing the name of the victim and the corresponding pseudonym, initials or other signifier is filed with the clerk of the court at the same time as the indictment is filed; and

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 (C) A copy of the document described in subparagraph (B) of this paragraph is provided
2 to the defense attorney or, if the defendant does not have a lawyer, in accordance with par-
3 agraph (c) of this subsection, at the time of arraignment on the indictment.

4 (b) The defense attorney may orally inform the defendant of the name of the victim
5 contained in the document described in paragraph (a)(B) of this subsection but may not
6 provide a copy of the document to the defendant.

7 (c) If a defendant is not represented by a lawyer, the district attorney shall provide a
8 copy of the document described in paragraph (a)(B) of this subsection to the defendant. At
9 the time of providing the document, the court shall enter an order prohibiting the defendant
10 from copying the document or providing the document to any other person.

11 (d) The document described in paragraph (a)(B) of this subsection is confidential with
12 respect to any person who is not a party to the case. At any time during the proceeding the
13 court may, upon a finding of good cause, order that the document is not confidential. Once
14 the final judgment on the case is entered, the document is no longer confidential.

15 **SECTION 2.** ORS 132.580 is amended to read:

16 132.580. (1) **Except as provided in subsection (2) of this section,** when an indictment is found,
17 the names of the witnesses examined before the grand jury that returned the indictment, either by
18 testimony in the presence of the grand jury, by affidavit, by means of simultaneous television
19 transmission under ORS 132.320 (5) or by telephone under ORS 132.320 (7), and the names of those
20 whose reports were received by such grand jury pursuant to ORS 132.320 (2) must be inserted at the
21 foot of the indictment, or indorsed thereon, before it is filed. The indorsement shall show whether
22 the witness gave testimony before the grand jury in person, by affidavit, by means of simultaneous
23 television transmission or by telephone or filed a report.

24 (2)(a) **An indictment may include a pseudonym, initials or other signifier instead of the**
25 **name of a witness examined before the grand jury if:**

26 (A) **The witness is also a victim of a sex crime as defined in ORS 163A.005 alleged in the**
27 **indictment;**

28 (B) **A separate document containing the name of the witness and the corresponding**
29 **pseudonym, initials or other signifier is filed with the clerk of the court at the same time**
30 **as the indictment is filed; and**

31 (C) **A copy of the document described in subparagraph (B) of this paragraph is provided**
32 **to the defense attorney or, if the defendant does not have a lawyer, in accordance with par-**
33 **agraph (c) of this subsection, at the time of arraignment on the indictment.**

34 (b) **The defense attorney may orally inform the defendant of the name of the witness**
35 **contained in the document described in paragraph (a)(B) of this subsection but may not**
36 **provide a copy of the document to the defendant.**

37 (c) **If a defendant is not represented by a lawyer, the district attorney shall provide a**
38 **copy of the document described in paragraph (a)(B) of this subsection to the defendant. At**
39 **the time of providing the document, the court shall enter an order prohibiting the defendant**
40 **from copying the document or providing the document to any other person.**

41 (d) **The document described in paragraph (a)(B) of this subsection is confidential with**
42 **respect to any person who is not a party to the case. At any time during the proceeding the**
43 **court may, upon a finding of good cause, order that the document is not confidential. Once**
44 **the final judgment on the case is entered, the document is no longer confidential.**

45 [(2)] (3) **A witness examined before the grand jury whose name is not indorsed on the indictment**

1 shall not be permitted to testify at trial without the consent of the defendant, unless the court finds
2 that:

3 (a) The name of the witness was omitted from the indictment by inadvertence;

4 (b) The name of the witness was furnished to the defendant by the state at least 10 days before
5 trial; and

6 (c) The defendant will not be prejudiced by the omission.

7 **SECTION 3.** ORS 135.510 is amended to read:

8 135.510. (1) The indictment shall be set aside by the court upon the motion of the defendant in
9 either of the following cases:

10 (a) When it is not found, indorsed and presented as prescribed in ORS 132.360, 132.400 to 132.430
11 and 132.580.

12 (b) When the names of the witnesses examined before the grand jury are not inserted at the foot
13 of the indictment or indorsed thereon.

14 (2) [*Nothing in*] Subsection (1)(b) of this section [*shall affect the application of*] **does not apply**
15 **if the absence of a witness's name is permitted under** ORS 132.580.

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