

DRAFT

SUMMARY

Digest: The Act changes some rules for criminal cases. (Flesch Readability Score: 71.8).

Establishes a time limit on when a district attorney may submit an indictment to the grand jury on a pending case when a trial date has been scheduled.

Authorizes the use of grand jury recordings to challenge the indorsement of an indictment “a true bill.”

Requires the district attorney to file a motion for admission of evidence seized pursuant to a warrantless search.

Authorizes the court to modify the release decision after ordering preventative pretrial detention if circumstances have changed.

Authorizes the court to enter a judgment for a Class A violation when a person is convicted of a misdemeanor.

A BILL FOR AN ACT

Relating to criminal procedure; creating new provisions; and amending ORS 132.270, 132.330, 133.673, 133.693, 135.240 and 153.008.

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

INDICTMENT AND USE OF GRAND JURY RECORDINGS

SECTION 1. ORS 132.330 is amended to read:

132.330. (1) The district attorney may submit an indictment to the grand jury in any case when the district attorney has good reason to believe that a crime has been committed which is triable within the county.

(2) Notwithstanding subsection (1) of this section, when the defendant has been arraigned on a charging instrument and a trial date

1 **has been scheduled, the district attorney may not submit an**
2 **indictment to the grand jury concerning the pending case unless the**
3 **submission occurs at least 10 days before the trial date.**

4 **SECTION 2.** ORS 132.270 is amended to read:

5 132.270. (1) Audio recordings and the notes or report of a shorthand re-
6 porter produced pursuant to ORS 132.250 and 132.260 are confidential and
7 may not be released except as described in this section.

8 (2) When an indictment resulting from grand jury proceedings is indorsed
9 “a true bill,” the audio recording or the notes or report of a shorthand re-
10 porter of the grand jury proceedings may be released only in the following
11 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-
31 sulting with the defendant the defense attorney may not disclose to the de-

1 defendant:

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

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

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

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

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

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

31 (B) A member of the public may file a motion requesting a court order

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

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

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

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

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

18 (A) The prosecuting attorney may file a motion for a protective order
19 within 10 days after the defendant's arraignment on the indictment. The
20 motion may be filed on behalf of a victim or a witness. The prosecuting at-
21 torney shall inform the victim of the ability to seek a protective order.

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

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

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

1 portion of the audio recording, notes, report or transcript to be redacted.

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

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

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

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

15 (D) Any other relevant considerations.

16 (d) The court may permit the evidence of substantial and compelling cir-
17 cumstances described in paragraph (c) of this subsection to be made in the
18 form of a written statement to be inspected by the court only or by oral
19 testimony given on the record.

20 (5)(a) Except as provided in paragraph (b) of this subsection, when grand
21 jury proceedings do not result in an indictment indorsed as either “a true
22 bill” or “not a true bill,” the audio recording or notes or report of the
23 shorthand reporter produced pursuant to ORS 132.250 and 132.260 may not
24 be disclosed or released.

25 (b) When subsequent grand jury proceedings occur inquiring into the
26 same criminal episode as the grand jury proceedings described in paragraph
27 (a) of this subsection, and the subsequent proceedings result in an indictment
28 indorsed as “a true bill,” the prosecuting attorney shall provide notice to the
29 person charged in the indictment of the occurrence of the earlier grand jury
30 proceedings. After the person is arraigned on the indictment and the time
31 period described in subsection (2)(b) of this section has passed, the audio

1 recording or the notes or report of the shorthand reporter produced during
2 the earlier grand jury proceedings may be obtained in the manner set forth
3 in subsection (2) of this section.

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

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

10 (7) An audio recording, the notes or report of a shorthand reporter or a
11 transcript of a grand jury proceeding obtained pursuant to this section and
12 ORS 132.250 and 132.260:

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

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

17 [(c)] (b) May be used as evidence in a prosecution for perjury or false
18 swearing committed by a witness while giving testimony during the grand
19 jury proceeding or during trial.

20 [(d)] (c) May be used as evidence in a proceeding for contempt of court
21 against a person alleged to have violated the terms of a court order con-
22 cerning the audio recording, notes, report or transcript.

23 [(e)] (d) May be submitted to the court and used as evidence for a hearing
24 on a protective order described in subsection (4) of this section.

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

28 (9) As used in this section:

29 (a) “Personal identifiers” means:

30 (A) In relation to a witness or a grand juror, the person’s address, tele-
31 phone number, driver license, vehicle registration information, Social Secu-

1 rity number, date of birth and the identifying number of the person's
2 depository account at a financial institution, as defined in ORS 706.008, or
3 credit card account.

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

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

11

12 **USE OF EVIDENCE SEIZED DURING A WARRANTLESS SEARCH**

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14 **SECTION 3.** ORS 133.673 is amended to read:

15 133.673. (1)(a) Objections to use in evidence of things seized in violation
16 of any of the provisions of ORS 133.525 to 133.703 shall be made by a motion
17 to suppress which shall be heard and determined by any department of the
18 trial court in advance of trial.

19 **(b) Notwithstanding paragraph (a) of this subsection, if the district**
20 **attorney intends to rely at trial on evidence seized as the result of a**
21 **warrantless search, the district attorney shall file a motion requesting**
22 **the admission of the evidence. The motion shall be heard by any de-**
23 **partment of the trial court in advance of trial, and at the hearing, the**
24 **prosecution has the burden of proving by a preponderance of the evi-**
25 **dence the validity of the search.**

26 (2) A motion to suppress which has been denied may be renewed, in the
27 discretion of the court, on the ground of newly discovered evidence, or as the
28 interests of justice require.

29 **SECTION 4.** ORS 133.693 is amended to read:

30 133.693. (1) Subject to the provisions of subsection (2) of this section, in
31 any proceeding on a motion to suppress evidence the moving party shall be

1 entitled to contest, by cross-examination or offering evidence, the good faith,
2 accuracy and truthfulness of the affiant with respect to the evidence pre-
3 sented to establish probable cause for search or seizure.

4 (2) If the evidence sought to be suppressed was seized by authority of a
5 search warrant, the moving party shall be allowed to contest the good faith,
6 accuracy and truthfulness of the affiant as to the evidence presented before
7 the issuing authority only upon supplementary motion, supported by affida-
8 vit, setting forth substantial basis for questioning such good faith, accuracy
9 and truthfulness.

10 (3) In any proceeding under subsection (2) of this section, the moving
11 party shall have the burden of proving by a preponderance of the evidence
12 that the evidence presented before the issuing authority was not offered in
13 good faith, was not accurate and was not truthful.

14 *[(4) Where the motion to suppress challenges evidence seized as the result*
15 *of a warrantless search, the burden of proving by a preponderance of the evi-*
16 *dence the validity of the search is on the prosecution.]*

17 [(5)] (4) The court shall determine whether, under applicable law, any
18 inaccuracy, untruthfulness or lack of good faith requires suppression.

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PREVENTATIVE PRETRIAL DETENTION

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22 **SECTION 5.** ORS 135.240 is amended to read:

23 135.240. (1) Except as provided in subsections (2) and (4) of this section,
24 a defendant shall be released in accordance with ORS 135.230 to 135.290.

25 (2)(a) When the defendant is charged with murder, aggravated murder or
26 treason, release shall be denied when the proof is evident or the presumption
27 strong that the person is guilty.

28 (b) When the defendant is charged with murder or aggravated murder and
29 the proof is not evident nor the presumption strong that the defendant is
30 guilty, the court shall determine the issue of release as provided in sub-
31 section (4) of this section. In determining the issue of release under sub-

1 section (4) of this section, the court may consider any evidence used in
2 making the determination required by this subsection.

3 (3) The magistrate may conduct such hearing as the magistrate considers
4 necessary to determine whether, under subsection (2) of this section, the
5 proof is evident or the presumption strong that the person is guilty.

6 (4)(a) When the defendant is charged with a violent felony, release shall
7 be denied if the court finds:

8 (A) Except when the defendant is charged by indictment, that there is
9 probable cause to believe that the defendant committed the crime; and

10 (B) By clear and convincing evidence, that there is a danger of physical
11 injury or sexual victimization to the victim or members of the public by the
12 defendant while on release.

13 (b) If the defendant wants to have a hearing on the issue of release, the
14 defendant must request the hearing at the time of arraignment in circuit
15 court. If the defendant requests a release hearing, the court must hold the
16 hearing within five days of the request.

17 (c) At the release hearing, unless the state stipulates to the setting of
18 security or release, the court shall make the inquiry set forth in paragraph
19 (a) of this subsection. The state has the burden of producing evidence at the
20 release hearing subject to ORS 40.015 (4).

21 (d) The defendant may be represented by counsel and may present evi-
22 dence on any relevant issue. However, the hearing may not be used for pur-
23 poses of discovery.

24 (e) If the court determines that the defendant is eligible for release in
25 accordance with this subsection, the court shall set security or other appro-
26 priate conditions of release.

27 (f) When a defendant who has been released violates a condition of re-
28 lease and the violation:

29 (A) Constitutes a new criminal offense, the court shall cause the defend-
30 ant to be taken back into custody and shall order the defendant held pending
31 trial without release.

1 (B) Does not constitute a new criminal offense, the court may order the
2 defendant to be taken back into custody and may order the defendant held
3 pending trial or may make a new release decision.

4 **(g) If circumstances concerning the defendant’s release change at**
5 **any time after the court makes the finding described in paragraph (a)**
6 **of this subsection, the court, upon request by the district attorney or**
7 **the defendant, may modify the release decision.**

8 (5) For purposes of this section, “violent felony” means a felony offense
9 in which there was an actual or threatened serious physical injury to the
10 victim, or a felony sexual offense.

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MISDEMEANOR REDUCTION TO VIOLATION

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14 **SECTION 6.** Section 7 of this 2025 Act is added to and made a part
15 of ORS 161.705 to 161.737.

16 **SECTION 7.** (1) Notwithstanding ORS 161.545, and except as pro-
17 vided in subsection (3) of this section, the court may enter judgment
18 of conviction for a Class A violation and make disposition accordingly
19 when:

20 (a) A person is convicted of any misdemeanor; and

21 (b) The court, considering the nature and circumstances of the of-
22 fense and the history and character of the defendant, believes that a
23 violation conviction is appropriate.

24 (2) The entry of judgment of conviction for a Class A violation un-
25 der this section may be made at the time of conviction, and the court
26 shall clearly denominate the offense as a Class A violation in the
27 judgment.

28 (3) A court may not treat misdemeanors created under ORS 811.540
29 or 813.010 as violations under the provisions of this section.

30 **SECTION 8.** ORS 153.008 is amended to read:

31 153.008. (1) Except as provided in subsection (2) of this section, an offense

1 is a violation if any of the following apply:

2 (a) The offense is designated as a violation in the statute defining the
3 offense.

4 (b) The statute prescribing the penalty for the offense provides that the
5 offense is punishable by a fine but does not provide that the offense is
6 punishable by a term of imprisonment. The statute may provide for punish-
7 ment in addition to a fine as long as the punishment does not include a term
8 of imprisonment.

9 (c) The offense is created by an ordinance of a county, city, district or
10 other political subdivision of this state with authority to create offenses, and
11 the ordinance provides that violation of the ordinance is punishable by a fine
12 but does not provide that the offense is punishable by a term of
13 imprisonment. The ordinance may provide for punishment in addition to a
14 fine as long as the punishment does not include a term of imprisonment.

15 (d) The prosecuting attorney has elected to treat the offense as a violation
16 for purposes of a particular case in the manner provided by ORS 161.566.

17 (e) The court has elected to treat the offense as a violation for purposes
18 of a particular case in the manner provided by ORS 161.568.

19 **(f) The court has entered a judgment for a violation under section**
20 **7 of this 2025 Act.**

21 (2) Conviction of a violation does not give rise to any disability or legal
22 disadvantage based on conviction of a crime.

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APPLICABILITY

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26 **SECTION 9. (1) Section 7 of this 2025 Act and the amendments to**
27 **ORS 132.270, 132.330, 133.673, 133.693 and 153.008 by sections 1 to 4 and**
28 **8 of this 2025 Act apply to criminal proceedings initiated on or after**
29 **the effective date of this 2025 Act.**

30 **(2) The amendments to ORS 135.240 by section 5 of this 2025 Act**
31 **apply to criminal proceedings initiated before, on or after the effective**

1 **date of this 2025 Act.**

2

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CAPTIONS

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5 **SECTION 10. The unit and section captions used in this 2025 Act**
6 **are provided only for the convenience of the reader and do not become**
7 **part of the statutory law of this state or express any legislative intent**
8 **in the enactment of this 2025 Act.**

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