

A-Engrossed
House Bill 3148

Ordered by the Senate May 9
Including Senate Amendments dated May 9

Sponsored by Representative OSBORNE; Representatives GRAYBER, HIEB, MORGAN, RESCHKE, STOUT, WRIGHT

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 peace officer to **issue investigative subpoena or** request order from circuit court for information regarding missing individual **if specified standards are met**. Removes authority for peace officer to request investigative subpoena from circuit court.

Provides that person may respond to subpoena or court order by asserting right against self-incrimination **or any other right**. **Provides that person receiving subpoena or court order may apply to circuit court for relief. Requires that subpoena or court order provide notice of certain rights.**

Provides that immunity applies only to criminal investigation or prosecution of missing individual.

A BILL FOR AN ACT

1
2 Relating to missing persons; amending ORS 404.135.

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

4 **SECTION 1.** ORS 404.135 is amended to read:

5 404.135. (1) If a peace officer has probable cause to believe that an individual is missing and in
6 danger, the officer may request that the Attorney General, a district attorney[,] **or** a city or county
7 attorney [*or a circuit court judge*] execute in writing and cause to be served, **in the manner pro-**
8 **vided by ORCP 7**, an investigative subpoena **as described in this section.**

9 **(2)(a) If a person is unlikely to comply with an investigative subpoena issued under sub-**
10 **section (1) of this section in a timely manner or has already refused to comply with such a**
11 **subpoena, a peace officer may petition the circuit court in and for the county in which the**
12 **investigation is pending for a court order as described in this section.**

13 **(b) The court may hold a hearing on the petition upon request or upon its own motion.**
14 **If the petitioner demonstrates that the person is unlikely to comply or has refused to comply**
15 **with an investigative subpoena, the court may issue the order.**

16 **(c) Upon issuance of a court order under this subsection, the petitioner shall cause the**
17 **order to be served in the manner described in ORCP 7.**

18 **(3) An investigative subpoena or court order issued under this section must include no-**
19 **tice of the provisions of subsections (5) and (6) of this section.**

20 **(4) An investigative subpoena or court order issued under this section may be directed**
21 **toward any person that** [*upon an individual who*] is believed, by the Attorney General, the district
22 attorney, the city or county attorney or **the** circuit court judge, to have information, documents or
23 physical evidence that may be useful in locating the missing [*person*] **individual.**

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 [(2)] **(5) Subject to subsection (6) of this section,** the investigative subpoena **or court order**
2 **may require** [*requires*] the person, under oath or otherwise, to appear and testify, to answer written
3 interrogatories or to produce documents or physical evidence for examination, at a reasonable time
4 and place as may be stated in the subpoena **or court order**, to further the investigation into the
5 whereabouts of the missing individual.

6 **(6) A person that receives a subpoena or court order issued under this section may apply**
7 **to the circuit court in and for the county in which the investigation is pending for a pro-**
8 **TECTIVE ORDER, MODIFICATION OR OTHER RELIEF FROM THE SUBPOENA OR COURT ORDER. AN APPLICATION**
9 **UNDER THIS SUBSECTION MAY ALSO ASSERT THE PERSON'S CONSTITUTIONAL RIGHT AGAINST SELF-**
10 **INCrimINATION OR ANY OTHER RIGHT.**

11 [(3)] **(7)** Information, documents or physical evidence obtained pursuant to this section may not
12 be used for criminal investigation or prosecution **of the missing individual.**

13 [(4)] **(8)** This section does not alter the status of information, documents or physical evidence
14 disclosed. Notwithstanding disclosure for the purpose of locating a missing individual, confidential
15 information, documents or physical evidence retain their confidential status.

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