

## SENATE AMENDMENTS TO HOUSE BILL 3148

By COMMITTEE ON JUDICIARY

May 9

1 Delete lines 4 through 26 of the printed bill and insert:

2 **“SECTION 1.** ORS 404.135 is amended to read:

3 “404.135. (1) If a peace officer has probable cause to believe that an individual is missing and  
4 in danger, the officer may request that the Attorney General, a district attorney[,] **or** a city or  
5 county attorney [*or a circuit court judge*] execute in writing and cause to be served, **in the manner**  
6 **provided by ORCP 7**, an investigative subpoena **as described in this section.**

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

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

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

16 **“(3) An investigative subpoena or court order issued under this section must include**  
17 **notice of the provisions of subsections (5) and (6) of this section.**

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

22 **“[(2)] (5) Subject to subsection (6) of this section, the investigative subpoena or court order**  
23 **may require** [*requires*] the person, under oath or otherwise, to appear and testify, to answer written  
24 interrogatories or to produce documents or physical evidence for examination, at a reasonable time  
25 and place as may be stated in the subpoena **or court order**, to further the investigation into the  
26 whereabouts of the missing individual.

27 **“(6) A person that receives a subpoena or court order issued under this section may apply**  
28 **to the circuit court in and for the county in which the investigation is pending for a pro-**  
29 **protective order, modification or other relief from the subpoena or court order. An application**  
30 **under this subsection may also assert the person’s constitutional right against self-**  
31 **incrimination or any other right.**

32 **“[(3)] (7) Information, documents or physical evidence obtained pursuant to this section may not**  
33 **be used for criminal investigation or prosecution of the missing individual.**

34 **“[(4)] (8) This section does not alter the status of information, documents or physical evidence**  
35 **disclosed. Notwithstanding disclosure for the purpose of locating a missing individual, confidential**

1 information, documents or physical evidence retain their confidential status.”  
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