

Enrolled
Senate Bill 825

Sponsored by Senator THATCHER

CHAPTER

AN ACT

Relating to grand jury proceedings; creating new provisions; and amending ORS 132.320.

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

SECTION 1. ORS 132.320 is amended to read:

132.320. (1) Except as provided in subsections (2) to [(11)] (12) of this section, in the investigation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than such as might be given on the trial of the person charged with the crime in question.

(2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by such person in connection with a case which is the subject of a grand jury proceeding, shall, when certified by such person as a report made by such person or as a true copy thereof, be received in evidence in the grand jury proceeding.

(3) An affidavit of a witness who is unable to appear before the grand jury shall be received in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding judge for the judicial district in which the grand jury is sitting authorizes the receipt after good cause has been shown for the witness' inability to appear. An affidavit taken in another state or territory of the United States, the District of Columbia or in a foreign country must be authenticated as provided in ORS chapter 194 before it can be used in this state.

(4) A grand jury that is investigating a charge of criminal driving while suspended or revoked under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of a report of the peace officer concerning the peace officer's investigation of the violation of ORS 811.182 by the defendant.

(5) A grand jury may receive testimony of a witness by means of simultaneous television transmission allowing the grand jury and district attorney to observe and communicate with the witness and the witness to observe and communicate with the grand jury and the district attorney.

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

(7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence through the testimony of one peace officer involved in the criminal investigation under grand jury inquiry information from an official report of another peace officer involved in the same criminal investigation concerning the other peace officer's investigation of the matter before the grand jury. The statement of a person suspected of committing an offense or inadmissible hearsay of persons

other than the peace officer who compiled the official report may not be presented to a grand jury under this paragraph.

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

(8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS 181.812 may receive in evidence certified copies of the form required by ORS 181.815 (2) and sex offender registration forms and an affidavit of a representative of the Oregon State Police, as keepers of the state's sex offender registration records, certifying that the certified copies of the forms constitute the complete record for the defendant.

(9) The grand jury [*is not bound to hear evidence for the defendant, but it*] shall weigh all the evidence submitted to it; and when it believes that other evidence within its reach will explain away the charge, it should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

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

- (a) Whether the defendant was driving.
- (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.
- (c) The administration of tests under any provision of ORS chapter 813 and the results of such tests.

(d) The officer's observations of physical or mental impairment of the defendant.

(11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial institution for the purpose of authenticating records of the financial institution.

(b) As used in this subsection, "financial institution" means a financial institution as defined in ORS 706.008, an entity that regularly issues, processes or services credit cards or any other comparable entity that regularly produces financial records.

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

(b) A district attorney is not obligated to inform a defendant that a grand jury proceeding investigating charges against the defendant is pending, in progress or about to occur.

(c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district attorney shall provide in writing the date, time and location of the defendant's appearance before the grand jury to the defense attorney at the indicated electronic mail address. In the event of a scheduling conflict, the district attorney shall reasonably accommodate the schedules of the defendant and the defense attorney if the accommodation does not delay the grand jury proceeding beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

(d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial days and the district attorney and the defendant may stipulate to an extension of greater duration. During a period of delay caused by a scheduling conflict under

this subsection, ORS 135.230 to 135.290 shall continue to apply concerning the custody status of the defendant.

SECTION 2. The amendments to ORS 132.320 by section 1 of this 2015 Act apply to criminal offenses committed on or after the effective date of this 2015 Act.

Passed by Senate April 20, 2015

Received by Governor:

Repassed by Senate June 15, 2015

.....M.,....., 2015

Approved:

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Lori L. Brocker, Secretary of Senate

.....M.,....., 2015

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Peter Courtney, President of Senate

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Kate Brown, Governor

Passed by House June 4, 2015

Filed in Office of Secretary of State:

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Tina Kotek, Speaker of House

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State