

Senate Bill 597

Sponsored by Senator TAYLOR, Representative STARK (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 **as introduced**.

Authorizes use of pseudonym, initials or other signifier instead of name of witness or victim in indictment when specified requirements are met. Limits disclosure of document containing name of witness or victim.

A BILL FOR AN ACT

1
2 Relating to indictments; amending ORS 132.540, 132.580 and 135.510.

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

4 **SECTION 1.** ORS 132.540 is amended to read:

5 132.540. (1) The indictment is sufficient if it can be understood therefrom that:

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

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

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

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

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

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

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

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

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

27 **(C) A copy of the document described in subparagraph (B) of this paragraph is provided**
28 **to the defense attorney at the time of arraignment on the indictment, or later if good cause**
29 **is shown.**

30 **(b) The defense attorney may orally inform the defendant of the name of the victim**
31 **contained in the document described in paragraph (a)(B) of this subsection but may not**

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 **provide a copy of the document to the defendant.**

2 **(c) The document described in paragraph (a)(B) of this subsection is confidential and the**
 3 **clerk of the court shall seal the document within the court file.**

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

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

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

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

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

20 **(C) A copy of the document described in subparagraph (B) of this paragraph is provided**
 21 **to the defense attorney at the time of arraignment on the indictment, or later if good cause**
 22 **is shown.**

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

26 **(c) The document described in paragraph (a)(B) of this subsection is confidential and the**
 27 **clerk of the court shall seal the document within the court file.**

28 [(2)] (3) A witness examined before the grand jury whose name is not indorsed on the indictment
 29 shall not be permitted to testify at trial without the consent of the defendant, unless the court finds
 30 that:

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

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

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

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

36 135.510. (1) The indictment shall be set aside by the court upon the motion of the defendant in
 37 either of the following cases:

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

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

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