

House Bill 4130

Sponsored by Representatives LEIF, SMITH DB, PILUSO, NOBLE; Representatives BARKER, HELM, MOORE-GREEN, POST, STARK, ZIKA (Presession 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 peace officer to request order from circuit court for information regarding missing individual. 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.

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:

7 (a) Request that the Attorney General, a district attorney[,] **or** a city or county attorney [*or a*
8 *circuit court judge*] execute in writing and cause to be served an investigative subpoena **as de-**
9 **scribed in this section; or**

10 (b) **Request that a circuit court judge issue a court order as described in this section.**

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

15 [(2)] (3) **Subject to subsection (4) of this section,** the investigative subpoena **or court order**
16 **may require** [*requires*] the person, under oath or otherwise, to appear and testify, to answer written
17 interrogatories or to produce documents or physical evidence for examination, at a reasonable time
18 and place as may be stated in the subpoena **or court order**, to further the investigation into the
19 whereabouts of the missing individual.

20 (4) **A person that receives a subpoena or court order issued under this section may re-**
21 **spond by asserting the person's constitutional right against self-incrimination.**

22 [(3)] (5) Information, documents or physical evidence obtained pursuant to this section may not
23 be used for criminal investigation or prosecution **of the missing individual.**

24 [(4)] (6) This section does not alter the status of information, documents or physical evidence
25 disclosed. Notwithstanding disclosure for the purpose of locating a missing individual, confidential
26 information, documents or physical evidence retain their confidential status.

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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.