

SB 1511-1
(LC 98)
1/28/22 (JLM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 1511**

1 On page 4 of the printed bill, after line 12, insert:

2 **SECTION 4.** ORS 135.815, as amended by section 3 of this 2022 Act, is
3 amended to read:

4 “135.815. (1) Except as otherwise provided in ORS 135.855 and 135.873, the
5 district attorney shall disclose to a represented defendant the following ma-
6 terial and information within the possession or control of the district attor-
7 ney:

8 “(a) The names, addresses and telephone numbers of persons whom the
9 district attorney intends to call as witnesses at any stage of the trial, to-
10 gether with their relevant written or recorded statements or memoranda of
11 any oral statements of such persons.

12 “(b) Any written or recorded statements or memoranda of any oral state-
13 ments made by the defendant, or made by a codefendant if the trial is to be
14 a joint one.

15 “(c) Any reports or statements of experts, made in connection with the
16 particular case, including results of physical or mental examinations and of
17 scientific tests, experiments or comparisons which the district attorney in-
18 tends to offer in evidence at the trial.

19 “(d) Any books, papers, documents, photographs or tangible objects:

20 “(A) Which the district attorney intends to offer in evidence at the trial;
21 or

1 “(B) Which were obtained from or belong to the defendant.

2 “(e) If actually known to the district attorney, any record of prior crimi-
3 nal convictions of persons whom the district attorney intends to call as
4 witnesses at the trial; and the district attorney shall make a good faith effort
5 to determine if such convictions have occurred.

6 “(f) All prior convictions of the defendant known to the state that would
7 affect the determination of the defendant’s criminal history for sentencing
8 under rules of the Oregon Criminal Justice Commission.

9 “(g) Any material or information that tends to:

10 “(A) Exculpate the defendant;

11 “(B) Negate or mitigate the defendant’s guilt or punishment; or

12 “(C) Impeach a person the district attorney intends to call as a witness
13 at the trial.

14 “(2)(a) The disclosure required by subsection (1)(g) of this section:

15 “(A) Shall occur regardless of whether the material or information is re-
16 corded or in writing.

17 “(B) Shall occur without delay in accordance with ORS 135.845 and prior
18 to the entry of any guilty plea pursuant to an agreement with the state. If
19 the existence of the material or information is not known at that time, the
20 disclosure shall be made upon discovery without regard to whether the re-
21 presented defendant has entered or agreed to enter a guilty plea.

22 “(b) Nothing in subsection (1)(g) of this section:

23 “(A) Expands any obligation under a statutory provision or the Oregon
24 or United States Constitution to disclose, or right to disclosure of, personnel
25 or internal affairs files of law enforcement officers.

26 “(B) Imposes any obligation on the district attorney to provide material
27 or information beyond the obligation imposed by the Oregon and United
28 States Constitutions.

29 “(3) Except as otherwise provided in ORS 135.855 and 135.873, in prose-
30 cutions for violation of ORS 813.010 in which an instrument was used to test

1 a person's breath, blood or urine to determine the alcoholic content of the
2 person's blood the district attorney shall disclose to a represented defendant
3 at least the following material and information within the possession or
4 control of the district attorney:

5 "(a) Any report prepared by a police officer relating to field tests, inter-
6 views, observations and other information relating to the charged offense;

7 "(b) Any report relating to the test results;

8 "(c) A copy of the form provided to the defendant under ORS 813.100
9 (2)(b); and

10 "(d) Any checklist prepared by the operator of the instrument for the test.

11 "(4)(a) If a defendant is not represented by a lawyer, the district attorney
12 shall disclose to the defendant all of the information described in subsections
13 (1) and (3) of this section except for the personal identifiers of the victim and
14 any witnesses.

15 "(b) Notwithstanding paragraph (a) of this subsection, the district attor-
16 ney shall disclose the personal identifiers of the victim and any witnesses if
17 the trial court orders the disclosure. A trial court shall order the district
18 attorney to disclose the personal identifiers of the victim and any witnesses
19 if the trial court finds that:

20 "(A) The defendant has requested the information; and

21 "(B)(i) The victim or witness is a business or institution and disclosure
22 of the information would not represent a risk of harm to the victim or wit-
23 ness; or

24 "(ii) The need for the information cannot reasonably be met by other
25 means.

26 "[5] *The district attorney may charge a reasonable reimbursement fee for*
27 *the cost of providing copies of materials required to be disclosed under this*
28 *section, including but not limited to documents, photographs, reports, audio*
29 *recordings, video recordings or electronically stored information.]*

30 "[6)(a)] **(5)(a)** Unless authorized by the trial court to disclose the infor-

1 mation, a lawyer representing a defendant, or a representative of the lawyer,
2 may not disclose to the defendant personal identifiers of a victim or witness
3 obtained under subsections (1) and (3) of this section.

4 “(b) The trial court shall order the lawyer, or representative of the law-
5 yer, to disclose to the defendant the personal identifiers of a victim or wit-
6 ness if the court finds that:

7 “(A) The defendant’s lawyer has requested the district attorney to disclose
8 the information to the defendant;

9 “(B) The district attorney has refused to disclose the information to the
10 defendant; and

11 “(C) The need for the information cannot reasonably be met by other
12 means.

13 “[7] (6) As used in this section:

14 “(a) ‘Personal identifiers’ means:

15 “(A) In relation to a witness, the witness’s address, telephone number,
16 Social Security number and date of birth and the identifying number of the
17 witness’s depository account at a financial institution, as defined in ORS
18 706.008, or credit card account.

19 “(B) In relation to a victim, the victim’s address, electronic mail address,
20 telephone number, Social Security number, date of birth, any user names or
21 other identifying information associated with the victim’s social media ac-
22 counts and the identifying number of the victim’s depository account at a
23 financial institution, as defined in ORS 706.008, or credit card account.

24 “(b) ‘Representative of the lawyer’ has the meaning given that term in
25 ORS 40.225.

26 “(c) ‘Represented defendant’ means a defendant who is represented by a
27 lawyer in a criminal action.

28 “(d) ‘Social media’ has the meaning given that term in ORS 659A.330.

29 **“SECTION 5. The amendments to ORS 135.815 by section 4 of this**
30 **2022 Act become operative on January 1, 2024.”.**

1 In line 13, delete “4” and insert “6”.

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