

HB 2303 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/22

WHAT THE MEASURE DOES:

Requires the Department of State Police (OSP) to create a statewide system for the electronic application and issuance of search warrants and provides a General Fund allocation for creation of the system.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

District Attorneys, police officers, and special agents may petition a judge for issuance of a search warrant, submitting the proposed warrant along with a sworn statement providing the particulars about the thing to be searched or seized, and the probable cause for the search. The warrant application may be delivered in person to the judge or via electronic means. The affidavit and oath or affirmation can be written, or a judge can take an oral statement under oath or affirmation over the phone, so long as the statement is recorded, certified by the judge, and retained.

Oregon courts adopted a motor vehicle exception to the warrant requirement in 1986, providing that officers could search a vehicle without a warrant if that vehicle had been mobile and probable cause existed for the search, because the mobility of the vehicle created an exigent circumstance. In 2021, the Oregon Supreme Court clarified that the state must prove that exigent circumstances existed at the time of the search, and that exigency is case-specific, reversing the Court of Appeals decision that the search of a motor vehicle was *per se* exigent. *State v. McCarthy*, 369 Or. 129 (2021). Subsequent appellate decisions have examined the speed with which an officer could potentially have obtained a warrant, acknowledged that resources and practices can vary widely among counties and judicial districts, and reaffirmed that it is the burden of the state to demonstrate exigency.

House Bill 2303 would require the Department of State Police to create a statewide system for search warrants.