

SB 188 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/16

WHAT THE MEASURE DOES:

Repeals the statute that prohibits the court from excluding relevant and otherwise admissible evidence when that evidence was obtained in violation of any statutory provision, unless exclusion of the evidence is required by the United States or Oregon Constitutions, rules of evidence governing privileges and hearsay, or the rights of the press (ORS 136.432). The measure applies to criminal and juvenile proceedings initiated on or after the effective date of the measure.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Prohibits the court from excluding relevant and otherwise admissible evidence in a criminal action on the grounds that it was obtained in violation of any statutory provision, unless discovery of the evidence resulted from a violation of the statute that requires reasonable suspicion to stop a person (ORS 131.615), the statute that prohibits law enforcement from collecting and maintaining information about a political or other organization unless it directly relates to a criminal investigation (ORS 181A.250), or the statute related to police conduct during traffic stops (ORS 810.410). The measure applies to criminal and juvenile proceedings initiated on or after the effective date of the measure.

BACKGROUND:

ORS 136.432 was enacted into law in 1997 after a series of Oregon Supreme Court cases interpreting the legislature's intent of the traffic violation statute (ORS 810.410). Prior to 1997, the Court held in a number of cases that ORS 810.410 not only described what an officer could do respecting a traffic stop, but it also indicated what the officer could not do. Because the statute was meant to limit police activity associated with a traffic stop, the court held that any evidence obtained in violation of the statute should be suppressed, even if its seizure did not violate the United States or Oregon Constitution. In 1997, the Oregon legislature superseded that case law and enacted ORS 136.432, making clear that evidence seized in violation of any statute may not be suppressed unless it violated the United States or Oregon Constitutions.

Senate Bill 188 repeals the statute that prohibits the court from excluding relevant and otherwise admissible evidence when that evidence was obtained in violation of any statutory provision, unless exclusion of the evidence is required by the United States or Oregon Constitutions, rules of evidence governing privileges and hearsay, or the rights of the press.