

HB 3148 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 4/27

WHAT THE MEASURE DOES:

Removes authorization for a peace officer to request an investigative subpoena be issued and served from a circuit court judge. Allows a peace officer, who has probable cause to believe that an individual is missing and in danger, to request a circuit court judge issue a court order toward any person that is believed by certain persons to have information that may be useful in locating the missing person. States that a person who receives a subpoena or court order issued under this measure may respond by asserting their constitutional right against self-incrimination. Directs that evidence obtained pursuant to this section may not be used for a criminal investigation or prosecution of the missing individual.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

HOUSE VOTE: Ayes, 54; Excused, 5; Excused for Business of the House, 1

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Concerning missing individuals, removes authorization for a peace officer to request an investigative subpoena (subpoena) be issued from a circuit court judge, but continues to allow a peace officer to request a subpoena from the Attorney General, a district attorney or a county attorney. Sets forth process for a peace officer to request a court order if a peace officer can demonstrate a person is unlikely to comply with subpoena or has refused to comply with subpoena. Permits the court to hold a hearing on its own motion or upon request. Specifies subpoena or court order must be served in compliance with Oregon Rules of Civil Procedure 7 (ORCP 7: summons instructions). Allows a recipient of an investigative subpoena or court order to request a protective order or other relief from the subpoena; allows assertion of individual's right against self incrimination, or any other right. Directs that evidence obtained pursuant to this section may not be used for a criminal investigation or prosecution of the missing individual.

BACKGROUND:

House Bill 3148 removes authorization for a peace officer to request an investigative subpoena (or subpoena duces tecum) from a judge when that peace officer has probable cause to believe an individual is missing and in danger; instead allows a request for a court order that requires a person to appear and testify or produce evidence to further the investigation of a missing person. States that a person who receives a subpoena or court order may respond by asserting their constitutional right against self-incrimination. Currently the law prohibits using the evidence obtained in this process for a criminal investigation or prosecution against anyone; the measure would narrow this immunity and would only prohibit use of the evidence against the missing individual.