

SENATE AMENDMENTS TO SENATE BILL 954

By COMMITTEE ON JUDICIARY

March 31

1 On page 1 of the printed bill, line 9, delete “and”.

2 In line 10, delete the period and insert “; and

3 “(c) Violate one or more provisions of ORS 475.005 to 475.285, 475.752 to 475.980, 475A.210 to
4 475A.722, 475C.005 to 475C.525 or 475C.770 to 475C.919.”.

5 Delete lines 23 through 30 and delete page 2.

6 On page 3, delete lines 1 through 22 and insert:

7 “**SECTION 2.** ORS 133.545 is amended to read:

8 “133.545. (1) A search warrant may be issued only by a judge. A search warrant issued by a
9 judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except
10 as otherwise provided in subsections (2), (3) and (4) of this section, a search warrant issued by a
11 judge of a circuit court may be executed only within the judicial district in which the court is lo-
12 cated. A search warrant issued by a justice of the peace may be executed only within the county
13 in which the justice court is located. A search warrant issued by a municipal judge authorized to
14 exercise the powers and perform the duties of a justice of the peace may be executed only in the
15 municipality in which the court is located.

16 “(2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution
17 of a search warrant outside the judicial district in which the court is located, if the judge finds from
18 the application that one or more of the objects of the search relate to an offense committed or
19 triable within the judicial district in which the court is located **or that the search involves both**
20 **conduct that occurred in the judicial district in which the court is located and interrelated**
21 **conduct that occurred in one or more other judicial districts in this state. If a judge denies**
22 **a search warrant for interrelated conduct that occurred in more than one judicial district,**
23 **an application for the same search warrant may not be presented to a judge in another ju-**
24 **dicial district unless the other judicial district is one in which one or more of the objects of**
25 **the search relate to an offense committed or triable within the other judicial district.** If the
26 warrant authorizes the installation or tracking of a mobile tracking device, the officer may track
27 the device in any county to which it is transported.

28 “(3) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned pursuant
29 to ORS 1.615 to serve as a judge pro tempore in a circuit court, **or a senior judge duly assigned**
30 **to serve in a circuit court under ORS 1.300 and who has authorization from the presiding**
31 **judge of that judicial district,** may authorize execution of a search warrant in any judicial district
32 in which the judge [*serves as judge pro tempore if the application requesting the warrant includes an*
33 *affidavit showing that a regularly elected or appointed circuit court judge for the judicial district is*
34 *not available, whether by reason of conflict of interest or other reason, to issue the warrant within a*
35 *reasonable time*] **is assigned to serve as judge pro tempore or as senior judge.**

1 “(4) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution
2 of a search warrant outside the judicial district in which the court is located if the judge finds that:

3 “(a) The search relates to one of the following offenses involving a victim who was 65 years of
4 age or older at the time of the offense:

5 “(A) Criminal mistreatment in the first degree as described in ORS 163.205 (1)(b)(D) or (E);

6 “(B) Identity theft;

7 “(C) Aggravated identity theft;

8 “(D) Computer crime;

9 “(E) Fraudulent use of a credit card;

10 “(F) Forgery in any degree;

11 “(G) Criminal possession of a forged instrument in any degree;

12 “(H) Theft in any degree; or

13 “(I) Aggravated theft in the first degree;

14 “(b) The objects of the search consist of financial records; and

15 “(c) The person making application for the search warrant is not able to ascertain at the time
16 of the application the proper place of trial for the offense described in paragraph (a) of this sub-
17 section.

18 “(5) Application for a search warrant may be made only by a district attorney, a police officer
19 or a special agent employed under ORS 131.805.

20 “(6) The application shall consist of a proposed warrant in conformance with ORS 133.565, and
21 shall be supported by one or more affidavits particularly setting forth the facts and circumstances
22 tending to show that the objects of the search are in the places, or in the possession of the indi-
23 viduals, to be searched. If an affidavit is based in whole or in part on hearsay, the affiant shall set
24 forth facts bearing on any unnamed informant’s reliability and shall disclose, as far as possible, the
25 means by which the information was obtained.

26 “(7) Instead of the written affidavit described in subsection (6) of this section, the judge may
27 take an oral statement under oath. The oral statement shall be recorded and a copy of the recording
28 submitted to the judge who took the oral statement. In such cases, the judge shall certify that the
29 recording of the sworn oral statement is a true recording of the oral statement under oath and shall
30 retain the recording as part of the record of proceedings for the issuance of the warrant. The re-
31 cording shall constitute an affidavit for the purposes of this section. The applicant shall retain a
32 copy of the recording and shall provide a copy of the recording to the district attorney if the district
33 attorney is not the applicant.

34 “(8)(a) In addition to the procedure set out in subsection (7) of this section, the proposed war-
35 rant and the affidavit may be sent to the court by facsimile transmission or any similar electronic
36 transmission that delivers a complete printable image of the signed affidavit and proposed warrant.
37 The affidavit may have a notarized acknowledgment, or the affiant may swear to the affidavit by
38 telephone. If the affiant swears to the affidavit by telephone, the affidavit may be signed electron-
39 ically. A judge administering an oath telephonically under this subsection must execute a declara-
40 tion that recites the manner and time of the oath’s administration. The declaration must be filed
41 with the return.

42 “(b) When a court issues a warrant upon an application made under paragraph (a) of this sub-
43 section:

44 “(A) The court may transmit the signed warrant to the person making application under sub-
45 section (5) of this section by means of facsimile transmission or similar electronic transmission, as

1 described in paragraph (a) of this subsection. The court shall file the original signed warrant and
2 a printed image of the application with the return.

3 “(B) The person making application shall deliver the original signed affidavit to the court with
4 the return. If the affiant swore to the affidavit by telephone, the affiant must so note next to the
5 affiant’s signature on the affidavit.”

6 In line 33, delete “firefighters” and insert “assistants to the State Fire Marshal, as described in
7 ORS 476.060”.

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