

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 954**

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
4 475.980, 475A.210 to 475A.722, 475C.005 to 475C.525 or 475C.770 to
5 475C.919.”.

6 Delete lines 23 through 30 and delete page 2.

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

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

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

19 “(2) Notwithstanding subsection (1) of this section, a circuit court judge
20 may authorize execution of a search warrant outside the judicial district in
21 which the court is located, if the judge finds from the application that one

1 or more of the objects of the search relate to an offense committed or triable
2 within the judicial district in which the court is located **or that the search**
3 **involves both conduct that occurred in the judicial district in which**
4 **the court is located and interrelated conduct that occurred in one or**
5 **more other judicial districts in this state. If a judge denies a search**
6 **warrant for interrelated conduct that occurred in more than one ju-**
7 **dicial district, an application for the same search warrant may not be**
8 **presented to a judge in another judicial district unless the other judi-**
9 **cial district is one in which one or more of the objects of the search**
10 **relate to an offense committed or triable within the other judicial**
11 **district.** If the warrant authorizes the installation or tracking of a mobile
12 tracking device, the officer may track the device in any county to which it
13 is transported.

14 “(3) Notwithstanding subsection (1) of this section, a circuit court judge
15 duly assigned pursuant to ORS 1.615 to serve as a judge pro tempore in a
16 circuit court, **or a senior judge duly assigned to serve in a circuit court**
17 **under ORS 1.300 and who has authorization from the presiding judge**
18 **of that judicial district,** may authorize execution of a search warrant in
19 any judicial district in which the judge [*serves as judge pro tempore if the*
20 *application requesting the warrant includes an affidavit showing that a regu-*
21 *larly elected or appointed circuit court judge for the judicial district is not*
22 *available, whether by reason of conflict of interest or other reason, to issue the*
23 *warrant within a reasonable time*] **is assigned to serve as judge pro**
24 **tempore or as senior judge.**

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

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

30 “(A) Criminal mistreatment in the first degree as described in ORS 163.205

1 (1)(b)(D) or (E);
2 “(B) Identity theft;
3 “(C) Aggravated identity theft;
4 “(D) Computer crime;
5 “(E) Fraudulent use of a credit card;
6 “(F) Forgery in any degree;
7 “(G) Criminal possession of a forged instrument in any degree;
8 “(H) Theft in any degree; or
9 “(I) Aggravated theft in the first degree;
10 “(b) The objects of the search consist of financial records; and
11 “(c) The person making application for the search warrant is not able to
12 ascertain at the time of the application the proper place of trial for the of-
13 fense described in paragraph (a) of this subsection.
14 “(5) Application for a search warrant may be made only by a district at-
15 torney, a police officer or a special agent employed under ORS 131.805.
16 “(6) The application shall consist of a proposed warrant in conformance
17 with ORS 133.565, and shall be supported by one or more affidavits partic-
18 ularly setting forth the facts and circumstances tending to show that the
19 objects of the search are in the places, or in the possession of the individ-
20 uals, to be searched. If an affidavit is based in whole or in part on hearsay,
21 the affiant shall set forth facts bearing on any unnamed informant’s reli-
22 ability and shall disclose, as far as possible, the means by which the infor-
23 mation was obtained.
24 “(7) Instead of the written affidavit described in subsection (6) of this
25 section, the judge may take an oral statement under oath. The oral statement
26 shall be recorded and a copy of the recording submitted to the judge who
27 took the oral statement. In such cases, the judge shall certify that the re-
28 cording of the sworn oral statement is a true recording of the oral statement
29 under oath and shall retain the recording as part of the record of proceedings
30 for the issuance of the warrant. The recording shall constitute an affidavit

1 for the purposes of this section. The applicant shall retain a copy of the re-
2 cording and shall provide a copy of the recording to the district attorney if
3 the district attorney is not the applicant.

4 “(8)(a) In addition to the procedure set out in subsection (7) of this sec-
5 tion, the proposed warrant and the affidavit may be sent to the court by
6 facsimile transmission or any similar electronic transmission that delivers
7 a complete printable image of the signed affidavit and proposed warrant. The
8 affidavit may have a notarized acknowledgment, or the affiant may swear to
9 the affidavit by telephone. If the affiant swears to the affidavit by telephone,
10 the affidavit may be signed electronically. A judge administering an oath
11 telephonically under this subsection must execute a declaration that recites
12 the manner and time of the oath’s administration. The declaration must be
13 filed with the return.

14 “(b) When a court issues a warrant upon an application made under par-
15 agraph (a) of this subsection:

16 “(A) The court may transmit the signed warrant to the person making
17 application under subsection (5) of this section by means of facsimile trans-
18 mission or similar electronic transmission, as described in paragraph (a) of
19 this subsection. The court shall file the original signed warrant and a
20 printed image of the application with the return.

21 “(B) The person making application shall deliver the original signed affi-
22 davit to the court with the return. If the affiant swore to the affidavit by
23 telephone, the affiant must so note next to the affiant’s signature on the af-
24 fidavit.”.

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

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