

**TESTIMONY ON HB 3148
BEFORE THE SENATE COMMITTEE ON JUDICIARY
APRIL 27, 2023**

**PRESENTED BY: MICHAEL HSU, SENIOR ASSISTANT GENERAL COUNSEL
OREGON JUDICIAL DEPARTMENT**

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

My name is Michael Hsu, Senior Assistant General Counsel at the Oregon Judicial Department (OJD). We want to thank Representative Osborne for his graciousness and willingness to work with us on an amendment to the bill as introduced. With the -1 amendment, OJD is neutral on the measure.

The -1 amendment clarifies the court process for requesting enforcement of a subpoena or issuance of a court order and builds in additional procedural safeguards for the subpoenaed person. Specifically, the amendment:

- Specifies that the subpoena must be served in the manner provided by a specific Oregon Rule of Civil Procedure (ORCP 7, service of a summons);
- Requires a subpoena or court order issued under the measure to include notice to the recipient of the right against self-incrimination or any other right, as well as the ability to request a protective order, modification, or other relief;
- Allows a peace officer to petition for a court order in the county where the investigation is pending if the peace officer demonstrates a reasonable belief that the witness is unlikely to comply with an investigative subpoena in a timely manner or has already refused to comply with an investigative subpoena; and
- Allows the court discretion to hold a hearing on the petition.

The amendment is intended to balance a peace officer's need for the information in a timely manner with due process protections for the subpoenaed person and provide more clarity about the court-related processes. These additional procedures are necessary in part because the measure expands use of the subpoenaed information to allow use in a criminal prosecution of a person other than the missing individual.

Thank you for the opportunity to provide testimony on HB 3148.