

HB 2473-3
(LC 2631)
3/27/25 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Oregon District Attorneys Association)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2473**

1 On page 1 of the printed bill, line 2, after “132.270,” delete the rest of the
2 line and delete line 3 and insert “136.583, 166.065 and 813.160; and declaring
3 an emergency.”.

4 Delete lines 5 through 24 and delete pages 2 through 4.

5 On page 5, delete lines 1 through 8 and insert:

6 **“SECTION 1.** ORS 136.583 is amended to read:

7 “136.583. (1) Notwithstanding ORS 136.557, 136.563, 136.565 or 136.567 and
8 subject to ORS 136.580 (2), criminal process authorizing or commanding the
9 seizure or production of papers, documents, records or other things may be
10 issued to a recipient, regardless of whether the recipient or the papers, doc-
11 uments, records or things are located within this state, if:

12 “(a) The criminal matter is triable in Oregon under ORS 131.205 to
13 131.235; and

14 “(b) The exercise of jurisdiction over the recipient is not inconsistent
15 with the Constitution of this state or the Constitution of the United States.

16 “(2) Criminal process that authorizes or commands the seizure or pro-
17 duction of papers, documents, records or other things from a recipient may
18 be served by:

19 “(a) Delivering a copy to the recipient personally; or

20 “(b) Sending a copy by:

21 “(A) Certified or registered mail, return receipt requested;

1 “(B) Express mail; or

2 “(C) Facsimile or electronic transmission, if the copy is sent in a manner
3 that provides proof of delivery.

4 “(3) When criminal process is served under subsection (2) of this section,
5 the recipient shall provide the applicant, or if the process is described in
6 ORS 136.447 or 136.580 (2), the court, with all of the papers, documents, re-
7 cords or other things described in the criminal process within 20 business
8 days from the date the criminal process is received, unless:

9 “(a) The court, for good cause shown, includes in the process a require-
10 ment for production within a period of time that is less than 20 business
11 days;

12 “(b) The court, for good cause shown, extends the time for production to
13 a period of time that is more than 20 business days; or

14 “(c) The applicant consents to a request from the recipient for additional
15 time to comply with the process.

16 “(4) A recipient who seeks to quash or otherwise challenge the criminal
17 process must seek relief from the court that issued the process within the
18 time required for production. The court shall hear and decide the issue as
19 soon as practicable. The consent of the applicant to additional time to com-
20 ply with the process under subsection (3)(c) of this section does not extend
21 the date by which a recipient must seek relief under this subsection.

22 “(5) Criminal process issued under this section must contain a notice on
23 the first page of the document that indicates:

24 “(a) That the process was issued under this section;

25 “(b) The date before which the recipient must respond to the process; and

26 “(c) That the deadline for seeking relief is not altered by the applicant’s
27 consent to additional time to respond to the process.

28 “(6) Upon order of the court or the written request of the applicant, the
29 recipient of the process shall verify the authenticity of the papers, docu-
30 ments, records or other things that the recipient produces in response to the

1 criminal process by providing an affidavit, **statement of authenticity** or
2 declaration that [*includes contact information for*] **identifies** the custodian
3 or other qualified person completing the document and attests to the nature
4 of the papers, documents, records or other things. An affidavit, **statement**
5 **of authenticity** or declaration that complies with this subsection [*may ful-*
6 *fill*] **fulfills** the requirements of ORS 40.460 (6), 40.505 and 132.320.

7 “(7) A party that intends to offer a paper, document, record or other thing
8 into evidence under this section must file written notice of that intention
9 with the court and must disclose the affidavit, **statement of authenticity**
10 or declaration sufficiently in advance of offering the paper, document, record
11 or other thing into evidence to provide the adverse party with an opportunity
12 to challenge the affidavit, **statement of authenticity** or declaration and to
13 have that challenge determined without prejudice to the ability of the mov-
14 ing party to produce the custodian or other qualified person at trial. **The**
15 **written notice must include the contact information for the custodian**
16 **or other qualified person who signed the document.** A motion opposing
17 admission of the paper, document, record or other thing into evidence must
18 be filed and determined by the court before trial and with sufficient time to
19 allow the party offering the paper, document, record or other thing, if the
20 motion is granted, to produce the custodian of the record or other qualified
21 person at trial, without creating a hardship on the party or the custodian
22 or other qualified person.

23 “(8) Failure by a party that receives notice under subsection (7) of this
24 section to timely file a motion opposing admission of the paper, document,
25 record or other thing constitutes a waiver of objection to the admission of
26 the evidence on the basis of the insufficiency of the affidavit, **statement**
27 **of authenticity** or declaration unless the court finds good cause to grant
28 relief from the waiver. If the court grants relief from the waiver, the court
29 shall order the trial continued upon the request of the proponent of the ev-
30 idence and allow the proponent sufficient time to arrange for the necessary

1 witness to appear.

2 “(9) A recipient of criminal process under this section or any individual
3 that responds to the process is immune from civil and criminal liability for
4 complying with the process and for any failure to provide notice of any dis-
5 closure to a person who is the subject of, or identified in, the disclosure.

6 “(10) Nothing in this section limits the authority of a court to issue
7 criminal process under any other provision of law or prohibits a party from
8 calling the custodian of the evidence or other qualified person to testify re-
9 garding the evidence.

10 “(11) As used in this section:

11 “(a) ‘Applicant’ means:

12 “(A) A police officer or district attorney who applies for a search warrant
13 or other court order or seeks to issue a subpoena under this section; or

14 “(B) A defense attorney who applies for a court order or seeks to issue
15 a subpoena under this section.

16 “(b) ‘**Contact information**’ means a mailing address, email address
17 or phone number.

18 “[b] (c) ‘Criminal process’ means a subpoena, search warrant or other
19 court order.

20 “[c] (d) ‘Declaration’ means a declaration [*under penalty of perjury under*
21 *ORCP 1 E or an unsworn declaration under ORS 194.800 to 194.835, if the*
22 *declarant is physically outside the boundaries of the United States]* **under**
23 **ORCP 1 E.**

24 “[d] (e) ‘Defense attorney’ means an attorney of record for a person
25 charged with a crime who is seeking the issuance of criminal process for the
26 defense of the criminal case.

27 “[e] (f) ‘Recipient’ means a business entity or nonprofit entity that has
28 conducted business or engaged in transactions occurring at least in part in
29 this state.

30 “(g) ‘**Statement of authenticity**’ means a statement that attests to

1 **the authenticity, truthfulness or correctness of specific papers, docu-**
2 **ments, records or other things, that is signed by the custodian or**
3 **other qualified person.”.**

4 In line 9, delete “4” and insert “2”.

5 On page 8, delete lines 18 through 45 and delete pages 9 through 11 and
6 insert:

7 **“SECTION 3.** ORS 166.065 is amended to read:

8 “166.065. (1) A person commits the crime of harassment if the person in-
9 tentionally:

10 “(a) Harasses or annoys another person by[:]

11 “[A)] subjecting such other person to offensive physical contact; [or]

12 “[B) *Publicly insulting such other person by abusive words or gestures in*
13 *a manner intended and likely to provoke a violent response;*]

14 “(b) Subjects another to alarm by conveying a false report, known by the
15 conveyor to be false, concerning death or serious physical injury to a person,
16 which report reasonably would be expected to cause alarm; or

17 “(c) Subjects another to alarm by conveying a telephonic, electronic or
18 written threat to inflict serious physical injury on that person or to commit
19 a felony involving the person or property of that person or any member of
20 that person’s family, which threat reasonably would be expected to cause
21 alarm.

22 “(2)(a) A person is criminally liable for harassment if the person know-
23 ingly permits any telephone or electronic device under the person’s control
24 to be used in violation of subsection (1) of this section.

25 “(b) Harassment that is committed under the circumstances described in
26 subsection (1)(c) of this section is committed in either the county in which
27 the communication originated or the county in which the communication
28 was received.

29 “(3) Harassment is a Class B misdemeanor.

30 “(4) Notwithstanding subsection (3) of this section, harassment is a Class

1 A misdemeanor if a person violates:

2 “(a) Subsection [(1)(a)(A)] **(1)(a)** of this section by subjecting another
3 person to offensive physical contact and:

4 “(A) The offensive physical contact consists of touching the sexual or
5 other intimate parts of the other person; or

6 “(B)(i) The victim of the offense is a family or household member of the
7 person; and

8 “(ii) The offense is committed in the immediate presence of, or is wit-
9 nessed by, the person’s or the victim’s minor child or stepchild or a minor
10 child residing within the household of the person or victim; or

11 “(b) Subsection (1)(c) of this section and:

12 “(A) The person has a previous conviction under subsection (1)(c) of this
13 section and the victim of the current offense was the victim or a member of
14 the family of the victim of the previous offense;

15 “(B) At the time the offense was committed, the victim was protected by
16 a stalking protective order, a restraining order as defined in ORS 24.190 or
17 any other court order prohibiting the person from contacting the victim;

18 “(C) At the time the offense was committed, the person reasonably be-
19 lieved the victim to be under 18 years of age and more than three years
20 younger than the person; or

21 “(D)(i) The person conveyed a threat to kill the other person or any
22 member of the family of the other person;

23 “(ii) The person expressed the intent to carry out the threat; and

24 “(iii) A reasonable person would believe that the threat was likely to be
25 followed by action.

26 “(c) Subsection [(1)(a)(A)] **(1)(a)**, (b) or (c) of this section by committing
27 the crime of harassment against:

28 “(A) An election worker who is performing the election worker’s official
29 duties at the time the harassment occurs; or

30 “(B) An election worker because of an action taken or decision made by

1 the election worker during the performance of the election worker’s official
2 duties.

3 “(5) The Oregon Criminal Justice Commission shall classify harassment
4 as described in subsection (4)(a)(B) of this section as a person Class A
5 misdemeanor under the rules of the commission.

6 “(6)(a) As used in this section:

7 “(A) ‘Election worker’ has the meaning given that term in ORS 247.965.

8 “(B) ‘Electronic threat’ means a threat conveyed by electronic mail, the
9 Internet, a telephone text message or any other transmission of information
10 by wire, radio, optical cable, cellular system, electromagnetic system or other
11 similar means.

12 “(C) ‘Family or household member’ has the meaning given that term in
13 ORS 135.230.

14 “(b) For purposes of subsection (4) of this section, an offense is witnessed
15 if the offense is seen or directly perceived in any other manner by the minor
16 child.

17 **“SECTION 4.** ORS 813.160 is amended to read:

18 “813.160. (1) A chemical analysis is valid under ORS 813.300 if:

19 “(a) It is an analysis of a person’s blood for alcohol content and is per-
20 formed in:

21 “(A) A laboratory certified or accredited under 42 C.F.R. part 493 and
22 approved for toxicology testing;

23 “(B) A laboratory licensed under ORS 438.110 and approved for toxicology
24 testing; or

25 “(C) A forensic laboratory established by the Department of State Police
26 under ORS 181A.150 that is accredited by a national forensic accrediting
27 organization.

28 “(b) It is an analysis of a person’s breath and is performed by an indi-
29 vidual possessing a valid permit to perform chemical analyses issued by the
30 Department of State Police and is performed according to methods approved

1 by the Department of State Police. For purposes of this paragraph, the De-
2 partment of State Police shall do all of the following:

3 “(A) Approve methods of performing chemical analyses of a person’s
4 breath.

5 “(B) Prepare manuals and conduct courses throughout the state for the
6 training of police officers in chemical analyses of a person’s breath, which
7 courses shall include, but are not limited to, approved methods of chemical
8 analyses, use of approved equipment and interpretation of test results to-
9 gether with a written examination on these subjects.

10 “(C) Test and certify the accuracy of equipment to be used by police of-
11 ficers for chemical analyses of a person’s breath before regular use of the
12 equipment and periodically thereafter at intervals of not more than 90 days.
13 Tests and certification required by this subparagraph must be conducted by
14 trained technicians. Certification under this subparagraph does not require
15 a signed document.

16 “(D) Ascertain the qualifications and competence of individuals to con-
17 duct chemical analyses in accordance with one or more methods approved
18 by the department.

19 “(E) Issue permits to individuals according to their qualifications. Permits
20 may be issued to police officers only upon satisfactory completion of the
21 prescribed training course and written examination. A permit must state the
22 methods and equipment that the police officer is qualified to use. Permits
23 are subject to termination or revocation at the discretion of the Department
24 of State Police.

25 “(2) In conducting a chemical test of the blood, only a duly licensed
26 physician, **a phlebotomist** or a person acting under the direction or control
27 of a duly licensed physician may withdraw blood or pierce human tissue. A
28 licensed physician, **a phlebotomist** or a qualified person acting under the
29 direction or control of a duly licensed physician, is not civilly liable for
30 withdrawing any bodily substance, in a medically acceptable manner, at the

1 request of a peace officer.

2 “(3) An individual who performs a chemical analysis of breath or blood
3 under ORS 813.100 or 813.140 shall prepare and sign a written report of the
4 findings of the test that must include the identification of the police officer
5 upon whose request the test was administered.

6 “(4) Any individual having custody of the report mentioned in subsection
7 (3) of this section shall, upon request of the person tested, furnish that per-
8 son or that person’s attorney, a copy of the report.

9 “(5) The expense of conducting a chemical test as provided by ORS 813.100
10 or 813.140 must be paid by the governmental unit on whose equipment the
11 test is conducted or by the governmental unit upon whose request the test
12 was administered if no governmental unit’s equipment is used to conduct the
13 test.

14 “(6) As used in this section, ‘phlebotomist’ means a person who has
15 been trained in phlebotomy by an academic or medical institution.

16 **“SECTION 5. (1) The amendments to ORS 132.270, 166.065 and 813.160
17 by sections 2 through 4 of this 2025 Act become operative on January
18 1, 2026.**

19 **“(2) The amendments to ORS 132.270 by section 2 of this 2025 Act
20 apply to criminal proceedings based on conduct occurring on or after
21 January 1, 2026.**

22 **“SECTION 6. This 2025 Act being necessary for the immediate
23 preservation of the public peace, health and safety, an emergency is
24 declared to exist, and this 2025 Act takes effect on its passage.”.**

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