



SUPPORT HB 2473

COURT PROCESS EFFICIENCIES

AUTHENTICATING RECORDS:

Restore the law's original intent to reduce costs and improve Court efficiency.

EXPEDITED GRAND JURY TRANSCRIPT REQUEST AND RELEASE:

Reduce unnecessary delays in discovery, streamline the case process, and keep cases moving forward more efficiently, while still maintaining safeguards for sensitive victim information.

IMAGING DIGITAL DEVICES OF HOMICIDE VICTIMS:

Address the unique challenges posed in homicide or suspicious death investigations, where time-sensitive evidence stored on digital devices could be crucial to solving the case.

UPDATE MOBILE TRACKING DEVICE SEARCHES:

Expand tracking authority to recently committed crimes.

MODIFICATIONS TO RELEASE AGREEMENT VIOLATIONS:

A narrow fix to clarify when and how an individual can be held if they violate their terms of release and were not previously held in custody.



SUPPORT HB 2473 COURT PROCESS EFFICIENCIES

AUTHENTICATING RECORDS:

Restore the law's original intent to reduce costs and improve Court efficiency.

Current law allows a party to introduce records at trial and forgo the formalities of calling a custodian of record as a witness. This is allowed by the record holder providing a "declaration" or "affidavit" attesting to the authenticity of the document. The law was originally intended to streamline the process of introducing records at trial, allowing parties to avoid the costly and time-consuming process of bringing a custodian of records to testify by allowing for the use of affidavits or declarations verifying the authenticity of records. When ORS 136.583 was passed in 2009 through HB 2502, it aimed to ensure that records from out of state companies were available to litigants to avoid the expense of the subpoena process. Unfortunately, the changes made are so narrowly drafted that many out of state record providers certificates are not satisfying the hyper technical language contained in current law. These changes to ORS 136.583(6) and (11)(c) return to the intent of the law and allow for the introduction of these records when made correctly, under penalty of perjury and signed by the custodian of records.

EXPEDITED GRAND JURY TRANSCRIPT REQUEST AND RELEASE

Reduce unnecessary delays in discovery, streamline the case process, and keep cases moving forward more efficiently, while still maintaining safeguards for sensitive victim information.

Under current law, Grand Jury recordings cannot be released until ten days have passed after the Grand Jury proceedings. This waiting period delays discovery and prolongs the Court Process with potential continuances and rescheduling, frustrating the system for all involved. A simple fix is needed to amend ORS 132.270 to allow the prosecuting attorney to make an expedited determination of whether a protective order is needed, and if no protective order is sought then the Court can immediately release Grand Jury recordings prior to the expiration of the 10-days.

MODIFICATIONS TO RELEASE AGREEMENT VIOLATIONS

A narrow fix to clarify when and how an individual can be held if violate their terms of release and were not previously held in custody.

ORS 135.240(4)(f) allows for the revocation of release for defendants charged with violent felonies who violate release conditions. However, the statute creates confusion when preventative detention was not initially sought or granted. While defendants who commit new crimes while on release may be brought back into custody, the law is less clear when the violation involves non-criminal behavior, including violating a no-contact provision, violating house arrest conditions or failing to comply with monitoring restrictions (like cutting off an ankle bracelet or entering a restricted zone). While these may not constitute new crimes, they pose serious safety risks and show a disregard for the court's release conditions. The proposed fix would address the current ambiguity in the law regarding the revocation of release for defendants who violate conditions of release, particularly when charged with a violent felony. The clarification that a motion for preventative detention may be filed at any time upon a violation of release conditions—regardless of whether a motion was filed earlier or whether it was previously denied—would strengthen the court's ability to protect public safety and ensure that release conditions are effectively enforced.

IMAGING DIGITAL DEVICES OF HOMICIDE VICTIMS

Address the unique challenges posed in homicide or suspicious death investigations, where time-sensitive evidence stored on digital devices could be crucial to solving the case.

ORS 133.539, which governs law enforcement's ability to create a forensic image of a digital device, limits gathering information from that device unless they have consent or a search warrant. While this procedure is clear in cases where the individual who owns or possesses the device is alive and can either consent or refuse, it presents significant challenges in homicide investigations where the device belongs to a deceased person. In addition, identifying next of kin, who might have standing to consent, can be difficult; and presents greater challenges when the next of kin are a suspect in the case. Early in a homicide investigation, when time is most critical, law enforcement may not have enough information to establish probable cause that the deceased's device contains evidence which would prevent them from obtaining a search warrant. Digital evidence can degrade or become less useful over time. If critical evidence is stored on a device, delays in accessing that device could result in the loss or alteration of that evidence. In homicide cases, where time is often of the essence to gather evidence and build a case, this delay can be detrimental. The solution is to create a narrow exception for obtaining information from portable electronic devices in ORS 133.539 to allow access to a device if the user is deceased and the death is the subject of a law enforcement investigation.

UPDATE MOBILE TRACKING DEVICE SEARCHES

Expand tracking authority to past crimes and address instrumentalities and proceeds of crime.

ORS 133.619(6) allows for the use of mobile tracking devices to track individuals or locate instrumentalities of current or on-going crimes, but it doesn't include recently committed crimes. This addition to Oregon's mobile tracking device warrant law would help law enforcement locate offenders, recover stolen property, and seize weapons that may have been used to facilitate previous offenses, after the crime has already occurred.