

House Bill 3286

Sponsored by COMMITTEE ON JUDICIARY (at the request of Attorney General Ellen F. Rosenblum)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Eliminates transcription requirement for warrants based on sworn oral statements.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to warrants; amending ORS 133.545; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 133.545 is amended to read:

5 133.545. (1) A search warrant may be issued only by a judge. A search warrant issued by a
6 judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except
7 as otherwise provided in subsection (2) of this section, a search warrant issued by a judge of a cir-
8 cuit court may be executed only within the judicial district in which the court is located. A search
9 warrant issued by a justice of the peace may be executed only within the county in which the justice
10 court is located. A search warrant issued by a municipal judge authorized to exercise the powers
11 and perform the duties of a justice of the peace may be executed only in the municipality in which
12 the court is located.

13 (2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution
14 of a search warrant outside the judicial district in which the court is located, if the judge finds from
15 the application that one or more of the objects of the search relate to an offense committed or
16 triable within the judicial district in which the court is located. If the warrant authorizes the in-
17 stallation or tracking of a mobile tracking device, the officer may track the device in any county
18 to which it is transported.

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

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

27 (5) Instead of the written affidavit described in subsection (4) of this section, the judge may take
28 an oral statement under oath. The oral statement shall be recorded [*and transcribed*]. [*The tran-*
29 *scribed statement is an affidavit for the purposes of this section.*] In such cases, the recording of the
30 sworn oral statement [*and the transcribed statement*] shall be certified by the judge receiving it and
31 shall be retained as a part of the record of proceedings for the issuance of the warrant.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (6)(a) In addition to the procedure set out in subsection (5) of this section, the proposed warrant
 2 and the affidavit may be sent to the court by facsimile transmission or any similar electronic
 3 transmission that delivers a complete printable image of the signed affidavit and proposed warrant.
 4 The affidavit may have a notarized acknowledgment, or the affiant may swear to the affidavit by
 5 telephone. A judge administering an oath telephonically under this subsection must execute a dec-
 6 laration that recites the manner and time of the oath's administration. The declaration must be filed
 7 with the return.

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

10 (A) The court may transmit the signed warrant to the person making application under sub-
 11 section (3) of this section by means of facsimile transmission or similar electronic transmission, as
 12 described in paragraph (a) of this subsection. The court shall file the original signed warrant and
 13 a printed image of the application with the return.

14 (B) The person making application shall deliver the original signed affidavit to the court with
 15 the return. If the affiant swore to the affidavit by telephone, the affiant must so note next to the
 16 affiant's signature on the affidavit.

17 **SECTION 2. The amendments to ORS 133.545 by section 1 of this 2013 Act apply only to**
 18 **warrants issued on or after the effective date of this 2013 Act.**

19 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
 20 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 21 **on its passage.**

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