

Senate Bill 780

Sponsored by Senator DINGFELDER; Senator SHIELDS, Representatives FREDERICK, GALLEGOS, GREENLICK, KENY-GUYER

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**.

Requires grand jury proceeding involving use of deadly force by police officer to be recorded, transcribed and made available to public.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to grand juries; creating new provisions; amending ORS 132.090 and 132.430; and declaring
3 an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 132.310 to**
6 **132.390.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Certified shorthand reporter" has the meaning given that term in ORS 8.415.

9 (b) "Police officer" means a police officer or reserve officer, as those terms are defined
10 in ORS 181.610.

11 (2) A proceeding before a grand jury must be on the record and recorded by a certified
12 shorthand reporter as provided in this subsection if the proceeding has been convened to
13 examine the use of deadly force by a police officer that resulted in the death of a person.
14 When a proceeding is required to be on the record under this subsection, the district attor-
15 ney shall ensure that a certified shorthand reporter attends the sittings of the grand jury
16 to take and report the questioning and testimony of all witnesses. The certified shorthand
17 reporter may not record any information that reveals the identity of a grand juror. The
18 certified shorthand reporter may not be present during, or record, the deliberations of the
19 grand jury.

20 (3) Unless the certified shorthand reporter can show good cause why the time should be
21 extended, no later than 10 days after a grand jury in a proceeding required to be on the re-
22 cord under subsection (2) concludes, the certified shorthand reporter shall provide a certified
23 transcript of the report to the district attorney of the county in which the proceeding oc-
24 curred.

25 (4) No later than 20 days after receiving the transcript from the certified shorthand re-
26 porter, the district attorney shall make the transcript available for review by the public in
27 an electronic format on the Internet.

28 (5) The failure of a certified shorthand reporter to record all of the grand jury proceeding
29 required to be recorded under subsection (2) of this section does not affect the validity of
30 any indictment or prosecution that arises from the proceeding.

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.

SECTION 3. ORS 132.090 is amended to read:

132.090. (1) Except as provided in subsections (2) and (3) of this section **and section 2 of this 2013 Act**, no person other than the district attorney or a witness actually under examination shall be present during the sittings of the grand jury.

(2) **If not otherwise required under section 2 of this 2013 Act**, upon a motion filed by the district attorney in the circuit court, the circuit judge may appoint a reporter who shall attend the sittings of the grand jury to take and report the testimony in any matters pending before the grand jury, and may appoint a parent, guardian or other appropriate person 18 years of age or older to accompany any child 12 years of age or younger, or any person with mental retardation, during an appearance before the grand jury. The circuit judge, upon the district attorney’s showing to the court that it is necessary for the proper examination of a witness appearing before the grand jury, may appoint a guard, medical or other special attendant or nurse, who shall be present in the grand jury room and shall attend such sittings.

(3) The district attorney may designate an interpreter who is certified under ORS 45.291 to interpret the testimony of witnesses appearing before the grand jury. The district attorney may designate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a certified interpreter is not available and that the person designated by the district attorney is a qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may be present in the grand jury room and attend the sittings of the grand jury.

(4) No person other than members of the grand jury shall be present when the grand jury is deliberating or voting upon a matter before it.

(5) As used in this section, “mental retardation” has the meaning given that term in ORS 430.010. Mental retardation may be shown by attaching to the motion of the district attorney:

(a) Documentary evidence of intellectual functioning; or

(b) The affidavit of a qualified person familiar with the person with mental retardation. “Qualified person” includes, but is not limited to, a teacher, therapist or physician.

SECTION 4. ORS 132.430 is amended to read:

132.430. (1) When a person has been held to answer a criminal charge and the indictment in relation thereto is not found “a true bill,” it must be indorsed “not a true bill,” which indorsement must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain a public record. **Except for the recording and transcript required by section 2 of this 2013 Act**, in the case of an indictment not found “a true bill” against a person not so held, the same, together with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

(2) When an indictment indorsed “not a true bill” has been filed with the clerk of the court, the effect thereof is to dismiss the charge; and the same cannot be again submitted to or inquired of by the grand jury unless the court so orders.

SECTION 5. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.