

D R A F T

SUMMARY

Directs presiding judges of judicial districts within state to ensure proceedings before grand jury are recorded. Provides for phase-in of recording process based on population of district. Requires audio recording by clerk of court or reporting by shorthand reporter. Specifies matters that must be recorded and matters that may not be recorded.

Creates procedures for release of audio recordings or shorthand reporter reports. Provides process to request and enter protective order prohibiting or restricting access to recordings or reports. Specifies when recording or report, or transcript prepared from recording or report, may be used in court proceedings.

Allows statements of certain persons to be received through testimony of peace officer.

Prohibits release of grand jury proceeding recordings, reports or transcripts as public record.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to recording of grand jury proceedings; creating new provisions; amending ORS 132.090, 132.320, 132.430, 132.550, 135.405 and 192.502; repealing ORS 132.080; and declaring an emergency.

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

SECTION 1. (1)(a) The presiding judge of a judicial district with a population between 150,000 and 300,000 or over 700,000 shall ensure that proceedings before the grand jury are recorded in the manner described in this section and section 2 of this 2016 Act.

(b) The court shall provide and maintain suitable audio electronic recording devices to record grand jury proceedings.

(c) The Chief Justice of the Supreme Court shall designate the types

1 of audio electronic recording devices that are suitable for recording
2 grand jury proceedings.

3 (d) The prosecuting attorney shall provide the court access to the
4 premises in which the grand jury fulfills its obligations and the re-
5 cording equipment used to carry out the provisions of this section and
6 section 2 of this 2016 Act. The presiding judge of each judicial district
7 may enter into an agreement with the prosecuting attorney that
8 identifies the conditions and terms of access.

9 (2)(a) A clerk of the court shall be permitted to attend all pro-
10 ceedings of the grand jury for the purpose of electronically recording
11 the proceedings described in section 2 of this 2016 Act.

12 (b) Notwithstanding paragraph (a) of this subsection, the court
13 may, upon request of the prosecuting attorney or defense attorney,
14 appoint a certified shorthand reporter as defined in ORS 8.415 or a
15 shorthand reporter certified by a national certification association,
16 who shall be permitted to attend all proceedings of the grand jury for
17 the purpose of taking accurate notes. The shorthand reporter's ser-
18 vices shall be paid for by the party requesting the shorthand reporter.
19 The shorthand reporter shall be sworn to correctly report the pro-
20 ceedings of the grand jury described in section 2 of this 2016 Act and
21 to keep secret any information concerning the grand jury proceedings.

22 (c) A clerk of the court or shorthand reporter is not subject to
23 subpoena, and may not disclose any information, concerning the grand
24 jury proceedings without prior court authorization.

25 (d) The presiding judge shall ensure that a criminal background
26 check is conducted on a clerk of the court prior to the clerk's assign-
27 ment to electronically record a grand jury proceeding pursuant to this
28 section.

29 (3)(a) A failure of an audio electronic recording device to accurately
30 record all or part of a grand jury proceeding does not affect the va-
31 lidity of any prosecution or indictment.

1 (b) A failure of a clerk of the court to operate an audio electronic
2 recording device in a manner that accurately records all or part of a
3 grand jury proceeding, as required, does not affect the validity of any
4 prosecution or indictment.

5 (c) A failure of a shorthand reporter to prepare accurate notes or
6 an accurate report of all or part of a grand jury proceeding, as re-
7 quired, does not affect the validity of any prosecution or indictment.

8 (4) This section and section 2 of this 2016 Act do not apply to grand
9 jury proceedings under ORS 132.440 that inquire into the condition and
10 management of correctional facilities and youth correction facilities.

11 SECTION 2. (1) Except as provided in subsection (2) of this section,
12 the clerk of the court described in section 1 (2)(a) of this 2016 Act, or
13 the shorthand reporter described in section 1 (2)(b) of this 2016 Act,
14 who is recording grand jury proceedings in a judicial district with a
15 population between 150,000 and 300,000 or over 700,000 shall record all
16 matters that come before the grand jury, including:

17 (a) The case name and number;

18 (b) The names of witnesses appearing before the grand jury;

19 (c) Each statement made or question asked by the prosecuting at-
20 torney;

21 (d) Each question asked of, and each response given by, a witness
22 who appears before the grand jury; and

23 (e) Any statements made by a grand juror who is examined as a
24 witness as provided in ORS 132.350.

25 (2) The clerk of the court operating the audio electronic recording
26 device or the shorthand reporter reporting the grand jury proceedings
27 may not record or report:

28 (a) The deliberations or voting of the grand jury.

29 (b) A presentment made pursuant to ORS 132.370.

30 (c) A procedure related to the production of records, or the un-
31 sealing of records, subpoenaed pursuant to ORS 136.583 and to be pre-

1 sented before the grand jury.

2 (d) The contents of confidential records unrelated to a crime alleged
3 in an indictment the grand jury is considering.

4 (3) The clerk of the court or the shorthand reporter shall file with
5 the court the audio recordings or the notes or reports of the shorthand
6 reporter.

7 SECTION 3. (1) Audio recordings and shorthand reporter notes and
8 reports produced pursuant to sections 1 and 2 of this 2016 Act in a ju-
9 dicial district with a population between 150,000 and 300,000 or over
10 700,000 are confidential and may not be released by the court except
11 as described in this section.

12 (2) When an indictment resulting from grand jury proceedings is
13 indorsed “a true bill,” the audio recording of the grand jury pro-
14 ceedings or the notes or report of a shorthand reporter may be re-
15 leased only in the following manner:

16 (a) When the defendant has been arraigned on the indictment, the
17 prosecuting attorney and the defense attorney may obtain a copy of
18 the audio recording, notes or report:

19 (A) After 10 days have passed since the defendant’s arraignment on
20 the indictment and no motion described in paragraph (e) of this sub-
21 section has been filed; or

22 (B) In accordance with the court’s ruling on the motion described
23 in paragraph (e) of this subsection, if a motion has been filed.

24 (b) Unless the court orders otherwise, the prosecuting attorney and
25 the defense attorney may not copy, disseminate or republish the audio
26 recording, notes or report, or a transcript prepared from the audio
27 recording, notes or report released pursuant to this subsection, except
28 to provide a copy to an agent of the prosecuting attorney or defense
29 attorney for the limited purpose of case preparation. Unless a court
30 orders otherwise for good cause shown, in consulting with the de-
31 fendant the defense attorney may not disclose:

1 (A) The address, telephone number, date of birth, driver license or
2 vehicle registration information of a victim, witness or grand juror,
3 obtained from a recording, notes, report or transcript; or

4 (B) Any portion of a recording, notes, report or transcript that
5 contains the address, telephone number, date of birth, driver license
6 or vehicle registration information of a victim, witness or grand juror.

7 (c) The defense attorney may not provide a copy of the audio re-
8 cording, notes or report, or a transcript prepared from the audio re-
9 cording, notes or report, to the defendant.

10 (d) When the defendant has been arraigned but is not represented
11 by an attorney, the defendant may request by motion that the court
12 issue an order allowing the defendant access to review the contents
13 of the audio recording, notes or report. A copy of the motion must be
14 provided to the prosecuting attorney. The prosecuting attorney may
15 request a hearing on the motion within seven days of receiving a copy.
16 At the hearing, or in response to receiving the motion, the court may
17 set reasonable conditions on the review of the audio recording, notes
18 or report.

19 (e) The prosecuting attorney, the victim or a witness may file a
20 motion for a protective order no later than 10 days after the
21 arraignment on the indictment. The prosecuting attorney may also file
22 a motion for a protective order within 10 days of receiving a motion
23 described in paragraph (d) of this subsection. The court may order
24 that the defense attorney's or defendant's access to a copy of the audio
25 recording, notes or report be denied, restricted or deferred or may
26 make any other order upon a finding of substantial and compelling
27 reasons for the order. In deciding whether to grant the motion and
28 enter a protective order under this paragraph, the court may consider
29 the following:

30 (A) Protection of witnesses and others from physical harm, threats
31 of harm, bribes, economic interference, reprisal and other forms of

1 **intimidation;**

2 **(B) Maintenance of secrecy regarding informants, as required for**
3 **effective investigation of criminal activity;**

4 **(C) Confidential information recognized under law, including the**
5 **protection of confidential relationships and privileges; and**

6 **(D) Any other relevant considerations.**

7 **(f) The court may permit the evidence of substantial and compelling**
8 **circumstances described in paragraph (e) of this subsection to be made**
9 **in the form of a written statement to be inspected by the court only**
10 **or by oral testimony given on the record.**

11 **(3) When a grand jury inquires into the conduct of a public servant**
12 **as defined in ORS 162.005 for acts occurring in the performance of the**
13 **public servant's duties, and an indictment resulting from the grand**
14 **jury proceedings is indorsed "not a true bill," a person may file a**
15 **motion requesting a court order releasing all or a portion of the audio**
16 **recording, notes or report. A copy of the motion must be served on the**
17 **prosecuting attorney and the public servant's attorney, or the public**
18 **servant if the public servant is not represented by an attorney. In de-**
19 **ciding whether to issue such an order, the court shall determine**
20 **whether the public interest in disclosure outweighs the interest in**
21 **maintaining the secrecy of the grand jury proceedings. If the court**
22 **orders disclosure, the court may place reasonable conditions upon**
23 **copying, disseminating or republishing the audio recording, notes or**
24 **report.**

25 **(4)(a) Except as provided in paragraph (b) of this subsection, when**
26 **grand jury proceedings do not result in an indictment indorsed as ei-**
27 **ther "a true bill" or "not a true bill," the audio recording or the notes**
28 **or report of a shorthand reporter, or a transcript prepared from the**
29 **audio recording, notes or report, produced pursuant to sections 1 and**
30 **2 of this 2016 Act may not be disclosed or released.**

31 **(b) When subsequent grand jury proceedings occur inquiring into**

the same criminal episode as the grand jury proceedings described in paragraph (a) of this subsection, and the subsequent proceedings result in an indictment indorsed as “a true bill,” the prosecuting attorney shall provide notice to the person charged in the indictment of the occurrence of the earlier grand jury proceedings. After the person is arraigned on the indictment and the time period described in subsection (2)(a) of this section has passed, the audio recording, notes or report produced during the earlier grand jury proceedings may be obtained in the manner set forth in subsection (2) of this section.

(c) As used in this subsection, “criminal episode” has the meaning given that term in ORS 131.505.

(5) The Chief Justice of the Supreme Court may establish a fee under ORS 21.345 for the cost of providing a copy of any audio recording or shorthand reporter notes or report of a grand jury proceeding to a person requesting a copy under this section.

(6) An audio recording, notes, report or transcript of a grand jury proceeding obtained pursuant to sections 1 and 2 of this 2016 Act:

(a) May not be used as evidence in any subsequent proceeding, except as permitted under ORS 40.375, 40.380, 40.450, 40.460 or 40.465.

(b) May not be used to challenge the indorsement of an indictment “a true bill” or the proceedings that led to the indorsement.

(c) May be used as evidence in a prosecution for perjury or false swearing committed by a witness while giving testimony during the grand jury proceeding or during trial.

(d) May be used as evidence in a proceeding for contempt of court against a person alleged to have violated the terms of a court order concerning the audio recording, notes, report or transcript.

(7) The release of audio recordings, notes or reports of grand jury proceedings under this section does not affect discovery obligations under ORS 135.805 to 135.873.

SECTION 4. ORS 132.090 is amended to read:

132.090. (1) Except as provided in subsections (2) and (3) of this section **and sections 1 and 2 of this 2016 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) 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 an intellectual disability, 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, "intellectual disability" has the meaning given that term in ORS 427.005. Intellectual disability 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 an intellectual disability. "Qualified person" includes, but is not limited to, a

teacher, therapist or physician.

SECTION 5. ORS 132.320 is amended to read:

132.320. (1) Except as provided in subsections (2) to [(12)] **(13)** of this section, in the investigation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than such as might be given on the trial of the person charged with the crime in question.

(2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by such person in connection with a case which is the subject of a grand jury proceeding, shall, when certified by such person as a report made by such person or as a true copy thereof, be received in evidence in the grand jury proceeding.

(3) An affidavit of a witness who is unable to appear before the grand jury shall be received in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding judge for the judicial district in which the grand jury is sitting authorizes the receipt after good cause has been shown for the witness' inability to appear. An affidavit taken in another state or territory of the United States, the District of Columbia or in a foreign country must be authenticated as provided in ORS chapter 194 before it can be used in this state.

(4) A grand jury that is investigating a charge of criminal driving while suspended or revoked under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of a report of the peace officer concerning the peace officer's investigation of the violation of ORS 811.182 by the defendant.

(5) A grand jury may receive testimony of a witness by means of simultaneous television transmission allowing the grand jury and district attorney to observe and communicate with the witness and the witness to observe and communicate with the grand jury and the district attorney.

(6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the defendant failed to appear as required by law and setting forth facts sufficient to support that conclusion.

(7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence through the testimony of one peace officer involved in the criminal investigation under grand jury inquiry information from an official report of another peace officer involved in the same criminal investigation concerning the other peace officer's investigation of the matter before the grand jury. The statement of a person suspected of committing an offense or inadmissible hearsay of persons other than the peace officer who compiled the official report may not be presented to a grand jury under this paragraph.

(b) If the official report contains evidence other than chain of custody, venue or the name of the person suspected of committing an offense, the grand jurors must be notified that the evidence is being submitted by report and that the peace officer who compiled the report will be made available for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace officer under this paragraph, the peace officer may present sworn testimony by telephone if requiring the peace officer's presence before the grand jury would constitute an undue hardship on the peace officer or the agency that employs or utilizes the peace officer.

(8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and sex offender registration forms and an affidavit of a representative of the Oregon State Police, as keepers of the state's sex offender registration records, certifying that the certified copies of the forms constitute the complete record for the defendant.

(9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other evidence within its reach will explain away the charge, it should order such evidence to be produced, and for that purpose may re-

quire the district attorney to issue process for the witnesses.

(10) A grand jury that is investigating a charge of driving while under the influence of intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer regarding any or all of the following:

(a) Whether the defendant was driving.

(b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

(c) The administration of tests under any provision of ORS chapter 813 and the results of such tests.

(d) The officer's observations of physical or mental impairment of the defendant.

(11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial institution for the purpose of authenticating records of the financial institution.

(b) As used in this subsection, "financial institution" means a financial institution as defined in ORS 706.008, an entity that regularly issues, processes or services credit cards or any other comparable entity that regularly produces financial records.

(12)(a) A defendant who has been arraigned on an information alleging a felony charge that is the subject of a grand jury proceeding and who is represented by an attorney has a right to appear before the grand jury as a witness if, prior to the filing of an indictment, the defense attorney serves upon the district attorney written notice requesting the appearance. The notice shall include an electronic mail address at which the defense attorney may be contacted.

(b) A district attorney is not obligated to inform a defendant that a grand jury proceeding investigating charges against the defendant is pending, in progress or about to occur.

(c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district attorney shall provide in writing the date, time and location of the defendant's appearance before the grand jury to the defense

attorney at the indicated electronic mail address. In the event of a scheduling conflict, the district attorney shall reasonably accommodate the schedules of the defendant and the defense attorney if the accommodation does not delay the grand jury proceeding beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

(d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial days and the district attorney and the defendant may stipulate to an extension of greater duration. During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to 135.290 shall continue to apply concerning the custody status of the defendant.

(13) A grand jury, the proceedings of which are recorded pursuant to sections 1 and 2 of this 2016 Act, may receive in evidence, through the testimony of a peace officer involved in the criminal investigation under grand jury inquiry, the statement of:

(a) A person who cannot readily understand the proceedings, or who cannot communicate in the proceedings, because of a physical disability or developmental disability;

(b) A victim under 15 years of age; or

(c) A victim of a crime constituting domestic violence as defined in ORS 135.230, if the victim is unavailable as a witness and the statement would likely, if offered at trial, be admissible under ORS 40.460 (26).

SECTION 6. 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. 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 7. ORS 132.550 is amended to read:

132.550. The indictment shall contain substantially the following:

(1) The name of the circuit court in which it is filed;

(2) The title of the action;

(3) A statement that the grand jury accuses the defendant or defendants of the designated offense or offenses;

(4) A separate accusation or count addressed to each offense charged, if there be more than one;

(5) A statement in each count that the offense charged therein was committed in a designated county;

(6) A statement in each count that the offense charged therein was committed on, or on or about, a designated date, or during a designated period of time;

(7) A statement of the acts constituting the offense in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended;

(8) The dates of all grand jury proceedings related to the offense or offenses charged;

[(8)] **(9)** The signatures of the foreman and of the district attorney; and

[(9)] **(10)** The date the indictment is filed with the clerk of the court.

SECTION 8. ORS 135.405 is amended to read:

135.405. (1) In cases in which it appears that the interest of the public in the effective administration of criminal justice would thereby be served, and in accordance with the criteria set forth in ORS 135.415, the district attorney may engage in plea discussions for the purpose of reaching a plea agreement.

(2) The district attorney shall engage in plea discussions or reach a plea agreement with the defendant only through defense counsel, except when, as a matter of record, the defendant has effectively waived the right of the defendant to counsel or, if the defendant is not eligible for appointed counsel, has not retained counsel.

(3) The district attorney in reaching a plea agreement may agree to, but is not limited to, one or more of the following, as required by the circumstances of the individual case:

(a) To make or not to oppose favorable recommendations as to the sentence which should be imposed if the defendant enters a plea of guilty or no contest to the offense charged;

(b) To seek or not to oppose dismissal of the offense charged if the defendant enters a plea of guilty or no contest to another offense reasonably related to the defendant's conduct; or

(c) To seek or not to oppose dismissal of other charges or to refrain from bringing potential charges if the defendant enters a plea of guilty or no contest to the offense charged.

(4) Similarly situated defendants should be afforded equal plea agreement opportunities.

(5) The district attorney may not condition a plea offer on a requirement that the defendant waive:

(a) The disclosure obligation of ORS 135.815 (1)(g)[.]; or

(b) The ability to receive the audio recording or notes or report of grand jury proceedings as permitted under section 3 of this 2016 Act, if the indictment has been indorsed "a true bill."

(6)(a) A district attorney may provide a plea offer and agreed disposition recommendation to the defendant at the time of arraignment or first appearance of the defendant for a crime in open court under an early disposition program established under ORS 135.941.

(b) Unless extended by the court, a plea offer and agreed disposition recommendation made under paragraph (a) of this subsection expire upon com-

pletion of the arraignment. Except for good cause, a court may not extend a plea offer and agreed disposition recommendation under this paragraph for more than seven days for a misdemeanor or 21 days for a felony.

SECTION 9. Section 1 of this 2016 Act is amended to read:

Sec. 1. (1)(a) The presiding judge of a judicial district [*with a population between 150,000 and 300,000 or over 700,000*] shall ensure that proceedings before the grand jury are recorded in the manner described in this section and section 2 of this 2016 Act.

(b) The court shall provide and maintain suitable audio electronic recording devices to record grand jury proceedings.

(c) The Chief Justice of the Supreme Court shall designate the types of audio electronic recording devices that are suitable for recording grand jury proceedings.

(d) The prosecuting attorney shall provide the court access to the premises in which the grand jury fulfills its obligations and the recording equipment used to carry out the provisions of this section and section 2 of this 2016 Act. The presiding judge of each judicial district may enter into an agreement with the prosecuting attorney that identifies the conditions and terms of access.

(2)(a) A clerk of the court shall be permitted to attend all proceedings of the grand jury for the purpose of electronically recording the proceedings described in section 2 of this 2016 Act.

(b) Notwithstanding paragraph (a) of this subsection, the court may, upon request of the prosecuting attorney or defense attorney, appoint a certified shorthand reporter as defined in ORS 8.415 or a shorthand reporter certified by a national certification association, who shall be permitted to attend all proceedings of the grand jury for the purpose of taking accurate notes. The shorthand reporter's services shall be paid for by the party requesting the shorthand reporter. The shorthand reporter shall be sworn to correctly report the proceedings of the grand jury described in section 2 of this 2016 Act and to keep secret any information concerning the grand jury proceedings.

(c) A clerk of the court or shorthand reporter is not subject to subpoena, and may not disclose any information, concerning the grand jury proceedings without prior court authorization.

(d) The presiding judge shall ensure that a criminal background check is conducted on a clerk of the court prior to the clerk's assignment to electronically record a grand jury proceeding pursuant to this section.

(3)(a) A failure of an audio electronic recording device to accurately record all or part of a grand jury proceeding does not affect the validity of any prosecution or indictment.

(b) A failure of a clerk of the court to operate an audio electronic recording device in a manner that accurately records all or part of a grand jury proceeding, as required, does not affect the validity of any prosecution or indictment.

(c) A failure of a shorthand reporter to prepare accurate notes or an accurate report of all or part of a grand jury proceeding, as required, does not affect the validity of any prosecution or indictment.

(4) This section and section 2 of this 2016 Act do not apply to grand jury proceedings under ORS 132.440 that inquire into the condition and management of correctional facilities and youth correction facilities.

SECTION 10. Section 2 of this 2016 Act is amended to read:

Sec. 2. (1) Except as provided in subsection (2) of this section, the clerk of the court described in section 1 (2)(a) of this 2016 Act, or the shorthand reporter described in section 1 (2)(b) of this 2016 Act, *[who is recording grand jury proceedings in a judicial district with a population between 150,000 and 300,000 or over 700,000]* shall record all matters that come before the grand jury, including:

(a) The case name and number;

(b) The names of witnesses appearing before the grand jury;

(c) Each statement made or question asked by the prosecuting attorney;

(d) Each question asked of, and each response given by, a witness who appears before the grand jury; and

(e) Any statements made by a grand juror who is examined as a witness as provided in ORS 132.350.

(2) The clerk of the court operating the audio electronic recording device or the shorthand reporter reporting the grand jury proceedings may not record or report:

(a) The deliberations or voting of the grand jury.

(b) A presentment made pursuant to ORS 132.370.

(c) A procedure related to the production of records, or the unsealing of records, subpoenaed pursuant to ORS 136.583 and to be presented before the grand jury.

(d) The contents of confidential records unrelated to a crime alleged in an indictment the grand jury is considering.

(3) The clerk of the court or the shorthand reporter shall file with the court the audio recordings or the notes or reports of the shorthand reporter.

SECTION 11. Section 3 of this 2016 Act is amended to read:

Sec. 3. (1) Audio recordings and shorthand reporter notes and reports produced pursuant to sections 1 and 2 of this 2016 Act [*in a judicial district with a population between 150,000 and 300,000 or over 700,000*] are confidential and may not be released by the court except as described in this section.

(2) When an indictment resulting from grand jury proceedings is indorsed “a true bill,” the audio recording of the grand jury proceedings or the notes or report of a shorthand reporter may be released only in the following manner:

(a) When the defendant has been arraigned on the indictment, the prosecuting attorney and the defense attorney may obtain a copy of the audio recording, notes or report:

(A) After 10 days have passed since the defendant’s arraignment on the indictment and no motion described in paragraph (e) of this subsection has been filed; or

(B) In accordance with the court’s ruling on the motion described in paragraph (e) of this subsection, if a motion has been filed.

(b) Unless the court orders otherwise, the prosecuting attorney and the defense attorney may not copy, disseminate or republish the audio recording, notes or report, or a transcript prepared from the audio recording, notes or report released pursuant to this subsection, except to provide a copy to an agent of the prosecuting attorney or defense attorney for the limited purpose of case preparation. Unless a court orders otherwise for good cause shown, in consulting with the defendant the defense attorney may not disclose:

(A) The address, telephone number, date of birth, driver license or vehicle registration information of a victim, witness or grand juror, obtained from a recording, notes, report or transcript; or

(B) Any portion of a recording, notes, report or transcript that contains the address, telephone number, date of birth, driver license or vehicle registration information of a victim, witness or grand juror.

(c) The defense attorney may not provide a copy of the audio recording, notes or report, or a transcript prepared from the audio recording, notes or report, to the defendant.

(d) When the defendant has been arraigned but is not represented by an attorney, the defendant may request by motion that the court issue an order allowing the defendant access to review the contents of the audio recording, notes or report. A copy of the motion must be provided to the prosecuting attorney. The prosecuting attorney may request a hearing on the motion within seven days of receiving a copy. At the hearing, or in response to receiving the motion, the court may set reasonable conditions on the review of the audio recording, notes or report.

(e) The prosecuting attorney, the victim or a witness may file a motion for a protective order no later than 10 days after the arraignment on the indictment. The prosecuting attorney may also file a motion for a protective order within 10 days of receiving a motion described in paragraph (d) of this subsection. The court may order that the defense attorney's or defendant's access to a copy of the audio recording, notes or report be denied, restricted or deferred or may make any other order upon a finding of substantial and

1 compelling reasons for the order. In deciding whether to grant the motion
2 and enter a protective order under this paragraph, the court may consider
3 the following:

4 (A) Protection of witnesses and others from physical harm, threats of
5 harm, bribes, economic interference, reprisal and other forms of intimidation;

6 (B) Maintenance of secrecy regarding informants, as required for effective
7 investigation of criminal activity;

8 (C) Confidential information recognized under law, including the pro-
9 tection of confidential relationships and privileges; and

10 (D) Any other relevant considerations.

11 (f) The court may permit the evidence of substantial and compelling cir-
12 cumstances described in paragraph (e) of this subsection to be made in the
13 form of a written statement to be inspected by the court only or by oral
14 testimony given on the record.

15 (3) When a grand jury inquires into the conduct of a public servant as
16 defined in ORS 162.005 for acts occurring in the performance of the public
17 servant's duties, and an indictment resulting from the grand jury proceedings
18 is indorsed "not a true bill," a person may file a motion requesting a court
19 order releasing all or a portion of the audio recording, notes or report. A
20 copy of the motion must be served on the prosecuting attorney and the public
21 servant's attorney, or the public servant if the public servant is not repres-
22 ented by an attorney. In deciding whether to issue such an order, the court
23 shall determine whether the public interest in disclosure outweighs the in-
24 terest in maintaining the secrecy of the grand jury proceedings. If the court
25 orders disclosure, the court may place reasonable conditions upon copying,
26 disseminating or republishing the audio recording, notes or report.

27 (4)(a) Except as provided in paragraph (b) of this subsection, when grand
28 jury proceedings do not result in an indictment indorsed as either "a true
29 bill" or "not a true bill," the audio recording or the notes or report of a
30 shorthand reporter, or a transcript prepared from the audio recording, notes
31 or report, produced pursuant to sections 1 and 2 of this 2016 Act may not

1 be disclosed or released.

2 (b) When subsequent grand jury proceedings occur inquiring into the
3 same criminal episode as the grand jury proceedings described in paragraph
4 (a) of this subsection, and the subsequent proceedings result in an indictment
5 indorsed as “a true bill,” the prosecuting attorney shall provide notice to the
6 person charged in the indictment of the occurrence of the earlier grand jury
7 proceedings. After the person is arraigned on the indictment and the time
8 period described in subsection (2)(a) of this section has passed, the audio
9 recording, notes or report produced during the earlier grand jury proceedings
10 may be obtained in the manner set forth in subsection (2) of this section.

11 (c) As used in this subsection, “criminal episode” has the meaning given
12 that term in ORS 131.505.

13 (5) The Chief Justice of the Supreme Court may establish a fee under ORS
14 21.345 for the cost of providing a copy of any audio recording or shorthand
15 reporter notes or report of a grand jury proceeding to a person requesting
16 a copy under this section.

17 (6) An audio recording, notes, report or transcript of a grand jury pro-
18 ceeding obtained pursuant to sections 1 and 2 of this 2016 Act:

19 (a) May not be used as evidence in any subsequent proceeding, except as
20 permitted under ORS 40.375, 40.380, 40.450, 40.460 or 40.465.

21 (b) May not be used to challenge the indorsement of an indictment “a true
22 bill” or the proceedings that led to the indorsement.

23 (c) May be used as evidence in a prosecution for perjury or false swearing
24 committed by a witness while giving testimony during the grand jury pro-
25 ceeding or during trial.

26 (d) May be used as evidence in a proceeding for contempt of court against
27 a person alleged to have violated the terms of a court order concerning the
28 audio recording, notes, report or transcript.

29 (7) The release of audio recordings, notes or reports of grand jury pro-
30 ceedings under this section does not affect discovery obligations under ORS
31 135.805 to 135.873.

SECTION 12. ORS 132.090, as amended by section 4 of this 2016 Act, is amended to read:

132.090. (1) Except as provided in subsections (2) and (3) of this section **and sections 1 and 2 of this 2016 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) 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 an intellectual disability, 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, "intellectual disability" has the meaning given that term in ORS 427.005. Intellectual disability 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 an intellectual disability. "Qualified person" includes, but is not limited to, a teacher, therapist or physician.

SECTION 13. ORS 192.502 is amended to read:

192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

(1) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

(2) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(3) Upon compliance with ORS 192.437, public body employee or volunteer residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services. This exemption:

(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or volunteers who are elected officials, except that a judge or district attorney subject to election may seek to exempt the judge's or district attorney's address or telephone number, or both, under the terms of ORS 192.445;

1 (b) Does not apply to employees or volunteers to the extent that the party
2 seeking disclosure shows by clear and convincing evidence that the public
3 interest requires disclosure in a particular instance pursuant to ORS 192.437;

4 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when
5 requested by a professional education association of which the substitute
6 teacher may be a member; and

7 (d) Does not relieve a public employer of any duty under ORS 243.650 to
8 243.782.

9 (4) Information submitted to a public body in confidence and not other-
10 wise required by law to be submitted, where such information should rea-
11 sonably be considered confidential, the public body has obliged itself in good
12 faith not to disclose the information, and when the public interest would
13 suffer by the disclosure.

14 (5) Information or records of the Department of Corrections, including the
15 State Board of Parole and Post-Prison Supervision, to the extent that dis-
16 closure would interfere with the rehabilitation of a person in custody of the
17 department or substantially prejudice or prevent the carrying out of the
18 functions of the department, if the public interest in confidentiality clearly
19 outweighs the public interest in disclosure.

20 (6) Records, reports and other information received or compiled by the
21 Director of the Department of Consumer and Business Services in the ad-
22 ministration of ORS chapters 723 and 725 not otherwise required by law to
23 be made public, to the extent that the interests of lending institutions, their
24 officers, employees and customers in preserving the confidentiality of such
25 information outweighs the public interest in disclosure.

26 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

27 (8) Any public records or information the disclosure of which is prohib-
28 ited by federal law or regulations.

29 (9)(a) Public records or information the disclosure of which is prohibited
30 or restricted or otherwise made confidential or privileged under Oregon law.

31 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply

1 to factual information compiled in a public record when:

2 (A) The basis for the claim of exemption is ORS 40.225;

3 (B) The factual information is not prohibited from disclosure under any
4 applicable state or federal law, regulation or court order and is not other-
5 wise exempt from disclosure under ORS 192.410 to 192.505;

6 (C) The factual information was compiled by or at the direction of an
7 attorney as part of an investigation on behalf of the public body in response
8 to information of possible wrongdoing by the public body;

9 (D) The factual information was not compiled in preparation for liti-
10 gation, arbitration or an administrative proceeding that was reasonably
11 likely to be initiated or that has been initiated by or against the public body;
12 and

13 (E) The holder of the privilege under ORS 40.225 has made or authorized
14 a public statement characterizing or partially disclosing the factual infor-
15 mation compiled by or at the attorney's direction.

16 (10) Public records or information described in this section, furnished by
17 the public body originally compiling, preparing or receiving them to any
18 other public officer or public body in connection with performance of the
19 duties of the recipient, if the considerations originally giving rise to the
20 confidential or exempt nature of the public records or information remain
21 applicable.

22 (11) Records of the Energy Facility Siting Council concerning the review
23 or approval of security programs pursuant to ORS 469.530.

24 (12) Employee and retiree address, telephone number and other nonfinan-
25 cial membership records and employee financial records maintained by the
26 Public Employees Retirement System pursuant to ORS chapters 238 and
27 238A.

28 (13) Records of or submitted to the State Treasurer, the Oregon Invest-
29 ment Council or the agents of the treasurer or the council relating to active
30 or proposed publicly traded investments under ORS chapter 293, including
31 but not limited to records regarding the acquisition, exchange or liquidation

of the investments. For the purposes of this subsection:

(a) The exemption does not apply to:

(A) Information in investment records solely related to the amount paid directly into an investment by, or returned from the investment directly to, the treasurer or council; or

(B) The identity of the entity to which the amount was paid directly or from which the amount was received directly.

(b) An investment in a publicly traded investment is no longer active when acquisition, exchange or liquidation of the investment has been concluded.

(14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition, deployment, exchange or liquidation of the investments including but not limited to:

(A) Due diligence materials that are proprietary to an investment fund, to an asset ownership or to their respective investment vehicles.

(B) Financial statements of an investment fund, an asset ownership or their respective investment vehicles.

(C) Meeting materials of an investment fund, an asset ownership or their respective investment vehicles.

(D) Records containing information regarding the portfolio positions in which an investment fund, an asset ownership or their respective investment vehicles invest.

(E) Capital call and distribution notices of an investment fund, an asset ownership or their respective investment vehicles.

(F) Investment agreements and related documents.

(b) The exemption under this subsection does not apply to:

(A) The name, address and vintage year of each privately placed invest-

ment fund.

(B) The dollar amount of the commitment made to each privately placed investment fund since inception of the fund.

(C) The dollar amount of cash contributions made to each privately placed investment fund since inception of the fund.

(D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board from each privately placed investment fund.

(E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board.

(F) The net internal rate of return of each privately placed investment fund since inception of the fund.

(G) The investment multiple of each privately placed investment fund since inception of the fund.

(H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis to each privately placed investment fund.

(I) The dollar amount of cash profit received from each privately placed investment fund on a fiscal year-end basis.

(15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

(16) Reports of unclaimed property filed by the holders of such property to the extent permitted by ORS 98.352.

(17)(a) The following records, communications and information submitted to the Oregon Business Development Commission, the Oregon Business Development Department, the State Department of Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS 777.005,

1 or a county or city governing body and any board, department, commission,
2 council or agency thereof, by applicants for investment funds, grants, loans,
3 services or economic development moneys, support or assistance including,
4 but not limited to, those described in ORS 285A.224:

5 (A) Personal financial statements.

6 (B) Financial statements of applicants.

7 (C) Customer lists.

8 (D) Information of an applicant pertaining to litigation to which the ap-
9 plicant is a party if the complaint has been filed, or if the complaint has not
10 been filed, if the applicant shows that such litigation is reasonably likely to
11 occur; this exemption does not apply to litigation which has been concluded,
12 and nothing in this subparagraph shall limit any right or opportunity
13 granted by discovery or deposition statutes to a party to litigation or po-
14 tential litigation.

15 (E) Production, sales and cost data.

16 (F) Marketing strategy information that relates to applicant's plan to
17 address specific markets and applicant's strategy regarding specific compet-
18 itors.

19 (b) The following records, communications and information submitted to
20 the State Department of Energy by applicants for tax credits or for grants
21 awarded under ORS 469B.256:

22 (A) Personal financial statements.

23 (B) Financial statements of applicants.

24 (C) Customer lists.

25 (D) Information of an applicant pertaining to litigation to which the ap-
26 plicant is a party if the complaint has been filed, or if the complaint has not
27 been filed, if the applicant shows that such litigation is reasonably likely to
28 occur; this exemption does not apply to litigation which has been concluded,
29 and nothing in this subparagraph shall limit any right or opportunity
30 granted by discovery or deposition statutes to a party to litigation or po-
31 tential litigation.

1 (E) Production, sales and cost data.

2 (F) Marketing strategy information that relates to applicant's plan to
3 address specific markets and applicant's strategy regarding specific compet-
4 itors.

5 (18) Records, reports or returns submitted by private concerns or enter-
6 prises required by law to be submitted to or inspected by a governmental
7 body to allow it to determine the amount of any transient lodging tax pay-
8 able and the amounts of such tax payable or paid, to the extent that such
9 information is in a form which would permit identification of the individual
10 concern or enterprise. Nothing in this subsection shall limit the use which
11 can be made of such information for regulatory purposes or its admissibility
12 in any enforcement proceedings. The public body shall notify the taxpayer
13 of the delinquency immediately by certified mail. However, in the event that
14 the payment or delivery of transient lodging taxes otherwise due to a public
15 body is delinquent by over 60 days, the public body shall disclose, upon the
16 request of any person, the following information:

17 (a) The identity of the individual concern or enterprise that is delinquent
18 over 60 days in the payment or delivery of the taxes.

19 (b) The period for which the taxes are delinquent.

20 (c) The actual, or estimated, amount of the delinquency.

21 (19) All information supplied by a person under ORS 151.485 for the pur-
22 pose of requesting appointed counsel, and all information supplied to the
23 court from whatever source for the purpose of verifying the financial eligi-
24 bility of a person pursuant to ORS 151.485.

25 (20) Workers' compensation claim records of the Department of Consumer
26 and Business Services, except in accordance with rules adopted by the Di-
27 rector of the Department of Consumer and Business Services, in any of the
28 following circumstances:

29 (a) When necessary for insurers, self-insured employers and third party
30 claim administrators to process workers' compensation claims.

31 (b) When necessary for the director, other governmental agencies of this

1 state or the United States to carry out their duties, functions or powers.

2 (c) When the disclosure is made in such a manner that the disclosed in-
3 formation cannot be used to identify any worker who is the subject of a
4 claim.

5 (d) When a worker or the worker's representative requests review of the
6 worker's claim record.

7 (21) Sensitive business records or financial or commercial information of
8 the Oregon Health and Science University that is not customarily provided
9 to business competitors.

10 (22) Records of Oregon Health and Science University regarding candi-
11 dates for the position of president of the university.

12 (23) The records of a library, including:

13 (a) Circulation records, showing use of specific library material by a
14 named person;

15 (b) The name of a library patron together with the address or telephone
16 number of the patron; and

17 (c) The electronic mail address of a patron.

18 (24) The following records, communications and information obtained by
19 the Housing and Community Services Department in connection with the
20 department's monitoring or administration of financial assistance or of
21 housing or other developments:

22 (a) Personal and corporate financial statements and information, includ-
23 ing tax returns.

24 (b) Credit reports.

25 (c) Project appraisals, excluding appraisals obtained in the course of
26 transactions involving an interest in real estate that is acquired, leased,
27 rented, exchanged, transferred or otherwise disposed of as part of the project,
28 but only after the transactions have closed and are concluded.

29 (d) Market studies and analyses.

30 (e) Articles of incorporation, partnership agreements and operating
31 agreements.

1 (f) Commitment letters.

2 (g) Project pro forma statements.

3 (h) Project cost certifications and cost data.

4 (i) Audits.

5 (j) Project tenant correspondence.

6 (k) Personal information about a tenant.

7 (L) Housing assistance payments.

8 (25) Raster geographic information system (GIS) digital databases, pro-
9 vided by private forestland owners or their representatives, voluntarily and
10 in confidence to the State Forestry Department, that is not otherwise re-
11 quired by law to be submitted.

12 (26) Sensitive business, commercial or financial information furnished to
13 or developed by a public body engaged in the business of providing electricity
14 or electricity services, if the information is directly related to a transaction
15 described in ORS 261.348, or if the information is directly related to a bid,
16 proposal or negotiations for the sale or purchase of electricity or electricity
17 services, and disclosure of the information would cause a competitive disad-
18 vantage for the public body or its retail electricity customers. This sub-
19 section does not apply to cost-of-service studies used in the development or
20 review of generally applicable rate schedules.

21 (27) Sensitive business, commercial or financial information furnished to
22 or developed by the City of Klamath Falls, acting solely in connection with
23 the ownership and operation of the Klamath Cogeneration Project, if the
24 information is directly related to a transaction described in ORS 225.085 and
25 disclosure of the information would cause a competitive disadvantage for the
26 Klamath Cogeneration Project. This subsection does not apply to cost-of-
27 service studies used in the development or review of generally applicable rate
28 schedules.

29 (28) Personally identifiable information about customers of a municipal
30 electric utility or a people's utility district or the names, dates of birth,
31 driver license numbers, telephone numbers, electronic mail addresses or So-

cial Security numbers of customers who receive water, sewer or storm drain services from a public body as defined in ORS 174.109. The utility or district may release personally identifiable information about a customer, and a public body providing water, sewer or storm drain services may release the name, date of birth, driver license number, telephone number, electronic mail address or Social Security number of a customer, if the customer consents in writing or electronically, if the disclosure is necessary for the utility, district or other public body to render services to the customer, if the disclosure is required pursuant to a court order or if the disclosure is otherwise required by federal or state law. The utility, district or other public body may charge as appropriate for the costs of providing such information. The utility, district or other public body may make customer records available to third party credit agencies on a regular basis in connection with the establishment and management of customer accounts or in the event such accounts are delinquent.

(29) A record of the street and number of an employee's address submitted to a special district to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

(30) Sensitive business records, capital development plans or financial or commercial information of Oregon Corrections Enterprises that is not customarily provided to business competitors.

(31) Documents, materials or other information submitted to the Director of the Department of Consumer and Business Services in confidence by a state, federal, foreign or international regulatory or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

(a) The document, material or other information is received upon notice or with an understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other in-

formation; and

(b) The director has obligated the Department of Consumer and Business Services not to disclose the document, material or other information.

(32) A county elections security plan developed and filed under ORS 254.074.

(33) Information about review or approval of programs relating to the security of:

(a) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(D) Petroleum products;

(E) Sewage; or

(F) Water.

(b) Telecommunication systems, including cellular, wireless or radio systems.

(c) Data transmissions by whatever means provided.

(34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court designates the information as confidential by rule under ORS 1.002.

(35)(a) Employer account records of the State Accident Insurance Fund Corporation.

(b) As used in this subsection, “employer account records” means all records maintained in any form that are specifically related to the account of any employer insured, previously insured or under consideration to be insured by the State Accident Insurance Fund Corporation and any information obtained or developed by the corporation in connection with providing, offering to provide or declining to provide insurance to a specific employer. “Employer account records” includes, but is not limited to, an employer’s payroll records, premium payment history, payroll classifications, employee names and identification information, experience modification factors, loss

1 experience and dividend payment history.

2 (c) The exemption provided by this subsection may not serve as the basis
3 for opposition to the discovery documents in litigation pursuant to applicable
4 rules of civil procedure.

5 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

6 (b) As used in this subsection, “claimant files” includes, but is not limited
7 to, all records held by the corporation pertaining to a person who has made
8 a claim, as defined in ORS 656.005, and all records pertaining to such a
9 claim.

10 (c) The exemption provided by this subsection may not serve as the basis
11 for opposition to the discovery documents in litigation pursuant to applicable
12 rules of civil procedure.

13 (37) Except as authorized by ORS 408.425, records that certify or verify
14 an individual’s discharge or other separation from military service.

15 (38) Records of or submitted to a domestic violence service or resource
16 center that relate to the name or personal information of an individual who
17 visits a center for service, including the date of service, the type of service
18 received, referrals or contact information or personal information of a family
19 member of the individual. As used in this subsection, “domestic violence
20 service or resource center” means an entity, the primary purpose of which
21 is to assist persons affected by domestic or sexual violence by providing re-
22 ferrals, resource information or other assistance specifically of benefit to
23 domestic or sexual violence victims.

24 (39) Information reported to the Oregon Health Authority under ORS
25 431A.860, except as provided in ORS 431A.860 (2)(b) information disclosed by
26 the authority under ORS 431A.865 and any information related to disclosures
27 made by the authority under ORS 431A.865, including information identifying
28 the recipient of the information.

29 (40)(a) Electronic mail addresses in the possession or custody of an agency
30 or subdivision of the executive department, as defined in ORS 174.112, a local
31 government or local service district, as defined in ORS 174.116, or a special

government body, as defined in ORS 174.117.

(b) This subsection does not apply to electronic mail addresses assigned by a public body to public employees for use by the employees in the ordinary course of their employment.

(41) Residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers of individuals currently or previously certified or licensed by the Department of Public Safety Standards and Training contained in the records maintained by the department.

(42) Personally identifiable information and contact information of veterans as defined in ORS 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the United States, National Guard or other reserve component that was obtained by the Department of Veterans' Affairs in the course of performing its duties and functions, including but not limited to names, residential and employment addresses, dates of birth, driver license numbers, telephone numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the character of discharge from military service, military rating or rank, that the person is a veteran or has provided military service, information relating to an application for or receipt of federal or state benefits, information relating to the basis for receipt or denial of federal or state benefits and information relating to a home loan or grant application, including but not limited to financial information provided in connection with the application.

(43) Audio recordings or shorthand reporter notes or reports of grand jury proceedings, or transcripts prepared from the recordings, notes or reports described in section 3 of this 2016 Act.

SECTION 14. ORS 132.080 is repealed.

SECTION 15. (1) Sections 1, 2 and 3 of this 2016 Act and the amendments to ORS 132.090, 132.320, 132.550, 135.405 and 192.502 by sections 4, 5, 7, 8 and 13 of this 2016 Act become operative October 1,

1 2017.

2 (2) The amendments to sections 1, 2 and 3 of this 2016 Act by
3 sections 9, 10 and 11 of this 2016 Act, the amendments to ORS 132.090
4 and 132.430 by sections 6 and 12 of this 2016 Act and the repeal of ORS
5 132.080 by section 14 of this 2016 Act become operative July 1, 2018.

6 (3) The Judicial Department may take any action before the opera-
7 tive dates specified in subsections (1) and (2) of this section that is
8 necessary to enable the department to exercise the duties, functions
9 and powers conferred on the department by this 2016 Act.

10 SECTION 16. This 2016 Act being necessary for the immediate
11 preservation of the public peace, health and safety, an emergency is
12 declared to exist, and this 2016 Act takes effect on its passage.