

# Enrolled Senate Bill 36

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Oregon Criminal Justice Commission)

CHAPTER .....

AN ACT

Relating to criminal procedure; amending ORS 136.595.

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

**SECTION 1.** ORS 136.595 is amended to read:

136.595. (1) Except as provided in ORS 136.447 and subsection (2) of this section, a subpoena is served by delivering a copy to the witness personally. [; and] Proof of the service is made in the same manner as in the service of a summons.

(2)(a) Every law enforcement agency shall designate an individual or individuals upon whom service of subpoena may be made. At least one of the designated individuals shall be available during normal business hours. In the absence of the designated individuals, service of subpoena pursuant to paragraph (b) of this subsection may be made upon the officer in charge of the law enforcement agency.

(b) If a peace officer's attendance at trial is required as a result of employment as a peace officer, a subpoena may be served on the peace officer by delivering a copy personally to the officer or to one of the individuals designated by the agency [which] **that** employs the officer not later than 10 days prior to the date attendance is sought. A subpoena may be served in this manner only if the officer is currently employed as a peace officer and is present within the state at the time of service.

(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law enforcement agency shall make a good faith effort to actually notify the officer whose attendance is sought of the date, time and location of the court appearance. If the officer cannot be notified, the law enforcement agency shall contact the court and a continuance may be granted to allow the officer to be personally served.

(d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a county sheriff's department or a municipal police department.

**(3) When a subpoena has been served as provided in subsection (1) or (2) of this section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to appear has changed, a new subpoena is not required to be served if:**

**(a) The subpoena is continued orally in open court in the presence of the person subpoenaed; or**

**(b) The party who issued the original subpoena notifies the person subpoenaed of the change by first class mail and by:**

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

**(B) Express mail.**



**Passed by Senate April 5, 2005**

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Secretary of Senate

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President of Senate

**Passed by House June 13, 2005**

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Speaker of House

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

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Secretary of State