

CRIMINAL LAW REVISION COMMISSION

Grand Jury; Proposed Constitutional Amendment

(Rough Draft No. 1)

Be It Resolved by the Legislative Assembly of the State of Oregon:

Paragraph 1. Section 5, Article VII (Amended), Oregon Constitution, is amended to read:

Section 5. (1) In civil cases three-fourths of the jury may render a verdict. The Legislative Assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors [; and] .

(2) Out of the whole number of jurors in attendance at the court, seven shall be chosen by lot as grand jurors, five of whom must concur to find an indictment.

(3) [But] Provision may be made by law for drawing and summoning the grand jurors from the regular jurylist at any time, separate from the panel of petit jurors, for empanelling more than one grand jury in a county and for the sitting of a grand jury during vacation as well as session of the court.

(4) No person shall be charged in any circuit court with the commission of any crime [or misdemeanor] defined or made punishable as a felony by any of the laws of this state, except upon indictment found by a grand jury or on information

filed by the district attorney as provided in subsection (5) of this section; provided, however, that any district attorney may file an amended indictment whenever an indictment has, by a ruling of the court, been held to be defective in form.

(5) [Provided further, however, that] (a) If any person appear before any judge of the circuit court and knowingly waive indictment, such person may be charged in such court with any [such] crime punishable as a felony [or misdemeanor] on information filed by the district attorney.

(b) In any case in which a person has a preliminary hearing before a magistrate and is held to answer upon a showing of probable cause that a crime punishable as a felony has been committed and that the person charged has committed it, or if the person knowingly waives preliminary hearing, the district attorney shall not submit the case to the grand jury, but may charge the person on information filed in circuit court.

(6) Such information shall be substantially in the form provided by law for indictments, and the procedure after the filing of such information shall be as provided by law upon indictment.

Paragraph 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next regular general election held throughout the state.