

Senate Bill 871

Sponsored by Senator BROWN; Senator GORDLY, Representative ROSENBAUM (at the request of Crime Victims United)

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**.

Exempts from disclosure under public records law audio recording of voice of caller to 9-1-1 emergency center unless public interest requires disclosure. Creates exceptions. Allows any person to obtain transcript of audio recording.

A BILL FOR AN ACT

1
2 Relating to exemption from disclosure of audio recording of voice of caller to 9-1-1 emergency cen-
3 ter; amending ORS 192.501.

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

5 **SECTION 1.** ORS 192.501 is amended to read:

6 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
7 unless the public interest requires disclosure in the particular instance:

8 (1) Records of a public body pertaining to litigation to which the public body is a party if the
9 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
10 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
11 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
12 or deposition statutes to a party to litigation or potential litigation;

13 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
14 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
15 compilation of information which is not patented, which is known only to certain individuals within
16 an organization and which is used in a business it conducts, having actual or potential commercial
17 value, and which gives its user an opportunity to obtain a business advantage over competitors who
18 do not know or use it;

19 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
20 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
21 disclosure in the course of a specific investigation, including the need to protect the complaining
22 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
23 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
24 record of an arrest or the report of a crime includes, but is not limited to:

25 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
26 ographical information;

27 (b) The offense with which the arrested person is charged;

28 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

29 (d) The identity of and biographical information concerning both complaining party and victim;

30 (e) The identity of the investigating and arresting agency and the length of the investigation;

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 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
2 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
3 from justice;
- 4 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
5 employment, academic or other examination or testing procedure before the examination is given
6 and if the examination is to be used again. Records establishing procedures for and instructing
7 persons administering, grading or evaluating an examination or testing procedure are included in
8 this exemption, to the extent that disclosure would create a risk that the result might be affected;
- 9 (5) Information consisting of production records, sale or purchase records or catch records, or
10 similar business records of a private concern or enterprise, required by law to be submitted to or
11 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
12 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
13 that such information is in a form which would permit identification of the individual concern or
14 enterprise. This exemption does not include records submitted by long term care facilities as defined
15 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
16 tient care. Nothing in this subsection shall limit the use which can be made of such information for
17 regulatory purposes or its admissibility in any enforcement proceeding;
- 18 (6) Information relating to the appraisal of real estate prior to its acquisition;
- 19 (7) The names and signatures of employees who sign authorization cards or petitions for the
20 purpose of requesting representation or decertification elections;
- 21 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
22 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
23 ORS 659A.850;
- 24 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
25 663.180;
- 26 (10) Records, reports and other information received or compiled by the Director of the De-
27 partment of Consumer and Business Services under ORS 697.732;
- 28 (11) Information concerning the location of archaeological sites or objects as those terms are
29 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
30 the need for the information is related to that Indian tribe's cultural or religious activities. This
31 exemption does not include information relating to a site that is all or part of an existing, commonly
32 known and publicized tourist facility or attraction;
- 33 (12) A personnel discipline action, or materials or documents supporting that action;
- 34 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
35 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
36 cies;
- 37 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
38 connection with research, until publicly released, copyrighted or patented;
- 39 (15) Computer programs developed or purchased by or for any public body for its own use. As
40 used in this subsection, "computer program" means a series of instructions or statements which
41 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
42 manipulation of data from such computer system, and any associated documentation and source
43 material that explain how to operate the computer program. "Computer program" does not include:
- 44 (a) The original data, including but not limited to numbers, text, voice, graphics and images;
45 (b) Analyses, compilations and other manipulated forms of the original data produced by use of

1 the program; or

2 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
3 the original data were to be produced manually;

4 (16) Data and information provided by participants to mediation under ORS 36.256;

5 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
6 until a final administrative determination is made or, if a citation is issued, until an employer re-
7 ceives notice of any citation;

8 (18) Specific operational plans in connection with an anticipated threat to individual or public
9 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
10 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
11 law enforcement activity;

12 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
13 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
14 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
15 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
16 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
17 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
18 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
19 audit of a cost study that would be discoverable in a contested case proceeding and that is not
20 subject to a protective order; and

21 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
22 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
23 with a telecommunications carrier, as defined in ORS 133.721;

24 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
25 247.967;

26 (21) The following records, communications and information submitted to a housing authority
27 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
28 for and recipients of loans, grants and tax credits:

29 (a) Personal and corporate financial statements and information, including tax returns;

30 (b) Credit reports;

31 (c) Project appraisals;

32 (d) Market studies and analyses;

33 (e) Articles of incorporation, partnership agreements and operating agreements;

34 (f) Commitment letters;

35 (g) Project pro forma statements;

36 (h) Project cost certifications and cost data;

37 (i) Audits;

38 (j) Project tenant correspondence requested to be confidential;

39 (k) Tenant files relating to certification; and

40 (L) Housing assistance payment requests;

41 (22) Records or information that, if disclosed, would allow a person to:

42 (a) Gain unauthorized access to buildings or other property;

43 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
44 disruption to, or interference with, services; or

45 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-

1 censing, communication or telecommunication systems, including the information contained in the
2 systems, that are used or operated by a public body;

3 (23) Records or information that would reveal or otherwise identify security measures, or
4 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
5 protect:

6 (a) An individual;

7 (b) Buildings or other property;

8 (c) Information processing, communication or telecommunication systems, including the infor-
9 mation contained in the systems; or

10 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
11 evaluation under ORS 461.180 (6);

12 (24) Personal information held by or under the direction of officials of the Oregon Health and
13 Science University or the Oregon University System about a person who has or who is interested
14 in donating money or property to the university, the system or a state institution of higher educa-
15 tion, if the information is related to the family of the person, personal assets of the person or is
16 incidental information not related to the donation;

17 (25) The home address, professional address and telephone number of a person who has or who
18 is interested in donating money or property to the Oregon University System;

19 (26) Records of the name and address of a person who files a report with or pays an assessment
20 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
21 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030;

22 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
23 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
24 card expiration date, password, financial institution account number and financial institution routing
25 number;

26 (28) Social Security numbers as provided in ORS 107.840;

27 (29) The electronic mail address of a student who attends a state institution of higher education
28 listed in ORS 352.002 or Oregon Health and Science University; *[and]*

29 **(30)(a) An audio recording of the voice of a caller making an emergency call, as defined**
30 **in ORS 401.710, to a public safety answering point, as defined in ORS 401.710, unless the caller**
31 **consents to the disclosure or, if the caller is unable to consent, a parent, the spouse, the**
32 **guardian or another legally recognized representative of the caller consents to the disclo-**
33 **sure. When determining whether the public interest requires disclosure in the particular**
34 **instance, the interest to be balanced against the public's interest in disclosure is the caller's**
35 **interest in the privacy of the audio recording.**

36 **(b) Notwithstanding paragraph (a) of this subsection:**

37 **(A) The following may obtain an audio recording of the voice of a caller making an**
38 **emergency call to a public safety answering point:**

39 **(i) A district attorney, as defined in ORS 131.005.**

40 **(ii) A law enforcement officer, as defined in ORS 133.726.**

41 **(iii) An attorney for a defendant in a criminal proceeding, as defined in ORS 131.005, when**
42 **the audio recording could lead to the discovery of admissible evidence.**

43 **(iv) An emergency service agency, as defined in ORS 401.025, for use in training an**
44 **emergency service worker, as defined in ORS 401.025.**

45 **(v) An employee of a 9-1-1 jurisdiction, as defined in ORS 401.710, for use in training an**

1 **employee of a 9-1-1 jurisdiction.**

2 (vi) **An employee of a rural fire protection district organized under ORS chapter 478 for**
 3 **use in training an employee of a rural fire protection district.**

4 (vii) **A labor organization, as defined in ORS 663.005, for use in an action by an employer**
 5 **against a member of the labor organization for the purpose of punishing the member.**

6 (B) **A person may obtain a transcript of an audio recording of the voice of a caller mak-**
 7 **ing an emergency call to a public safety answering point; and**

8 [(30)] (31) The name, home address, professional address or location of a person that is engaged
 9 in, or that provides goods or services for, medical research at Oregon Health and Science University
 10 that is conducted using animals other than rodents. This subsection does not apply to Oregon
 11 Health and Science University press releases, websites or other publications circulated to the gen-
 12 eral public.

13 **SECTION 2.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, is amended
 14 to read:

15 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
 16 unless the public interest requires disclosure in the particular instance:

17 (1) Records of a public body pertaining to litigation to which the public body is a party if the
 18 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
 19 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
 20 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
 21 or deposition statutes to a party to litigation or potential litigation;

22 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
 23 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
 24 compilation of information which is not patented, which is known only to certain individuals within
 25 an organization and which is used in a business it conducts, having actual or potential commercial
 26 value, and which gives its user an opportunity to obtain a business advantage over competitors who
 27 do not know or use it;

28 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
 29 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
 30 disclosure in the course of a specific investigation, including the need to protect the complaining
 31 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
 32 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
 33 record of an arrest or the report of a crime includes, but is not limited to:

34 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
 35 ographical information;

36 (b) The offense with which the arrested person is charged;

37 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

38 (d) The identity of and biographical information concerning both complaining party and victim;

39 (e) The identity of the investigating and arresting agency and the length of the investigation;

40 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

41 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
 42 from justice;

43 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
 44 employment, academic or other examination or testing procedure before the examination is given
 45 and if the examination is to be used again. Records establishing procedures for and instructing

1 persons administering, grading or evaluating an examination or testing procedure are included in
2 this exemption, to the extent that disclosure would create a risk that the result might be affected;

3 (5) Information consisting of production records, sale or purchase records or catch records, or
4 similar business records of a private concern or enterprise, required by law to be submitted to or
5 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
6 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
7 that such information is in a form which would permit identification of the individual concern or
8 enterprise. This exemption does not include records submitted by long term care facilities as defined
9 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
10 tient care. Nothing in this subsection shall limit the use which can be made of such information for
11 regulatory purposes or its admissibility in any enforcement proceeding;

12 (6) Information relating to the appraisal of real estate prior to its acquisition;

13 (7) The names and signatures of employees who sign authorization cards or petitions for the
14 purpose of requesting representation or decertification elections;

15 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
16 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
17 ORS 659A.850;

18 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
19 663.180;

20 (10) Records, reports and other information received or compiled by the Director of the De-
21 partment of Consumer and Business Services under ORS 697.732;

22 (11) Information concerning the location of archaeological sites or objects as those terms are
23 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
24 the need for the information is related to that Indian tribe's cultural or religious activities. This
25 exemption does not include information relating to a site that is all or part of an existing, commonly
26 known and publicized tourist facility or attraction;

27 (12) A personnel discipline action, or materials or documents supporting that action;

28 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
29 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
30 cies;

31 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
32 connection with research, until publicly released, copyrighted or patented;

33 (15) Computer programs developed or purchased by or for any public body for its own use. As
34 used in this subsection, "computer program" means a series of instructions or statements which
35 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
36 manipulation of data from such computer system, and any associated documentation and source
37 material that explain how to operate the computer program. "Computer program" does not include:

38 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

39 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
40 the program; or

41 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
42 the original data were to be produced manually;

43 (16) Data and information provided by participants to mediation under ORS 36.256;

44 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
45 until a final administrative determination is made or, if a citation is issued, until an employer re-

1 ceives notice of any citation;

2 (18) Specific operational plans in connection with an anticipated threat to individual or public
3 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
4 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
5 law enforcement activity;

6 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
7 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
8 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
9 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
10 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
11 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
12 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
13 audit of a cost study that would be discoverable in a contested case proceeding and that is not
14 subject to a protective order; and

15 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
16 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
17 with a telecommunications carrier, as defined in ORS 133.721;

18 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
19 247.967;

20 (21) The following records, communications and information submitted to a housing authority
21 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
22 for and recipients of loans, grants and tax credits:

23 (a) Personal and corporate financial statements and information, including tax returns;

24 (b) Credit reports;

25 (c) Project appraisals;

26 (d) Market studies and analyses;

27 (e) Articles of incorporation, partnership agreements and operating agreements;

28 (f) Commitment letters;

29 (g) Project pro forma statements;

30 (h) Project cost certifications and cost data;

31 (i) Audits;

32 (j) Project tenant correspondence requested to be confidential;

33 (k) Tenant files relating to certification; and

34 (L) Housing assistance payment requests;

35 (22) Records or information that, if disclosed, would allow a person to:

36 (a) Gain unauthorized access to buildings or other property;

37 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
38 disruption to, or interference with, services; or

39 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
40 cessing, communication or telecommunication systems, including the information contained in the
41 systems, that are used or operated by a public body;

42 (23) Records or information that would reveal or otherwise identify security measures, or
43 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
44 protect:

45 (a) An individual;

1 (b) Buildings or other property;

2 (c) Information processing, communication or telecommunication systems, including the infor-
3 mation contained in the systems; or

4 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
5 evaluation under ORS 461.180 (6);

6 (24) Personal information held by or under the direction of officials of the Oregon Health and
7 Science University or the Oregon University System about a person who has or who is interested
8 in donating money or property to the university, the system or a state institution of higher educa-
9 tion, if the information is related to the family of the person, personal assets of the person or is
10 incidental information not related to the donation;

11 (25) The home address, professional address and telephone number of a person who has or who
12 is interested in donating money or property to the Oregon University System;

13 (26) Records of the name and address of a person who files a report with or pays an assessment
14 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
15 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030;

16 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
17 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
18 card expiration date, password, financial institution account number and financial institution routing
19 number;

20 (28) Social Security numbers as provided in ORS 107.840; [*and*]

21 (29) The electronic mail address of a student who attends a state institution of higher education
22 listed in ORS 352.002 or Oregon Health and Science University[.]; **and**

23 **(30)(a) An audio recording of the voice of a caller making an emergency call, as defined**
24 **in ORS 401.710, to a public safety answering point, as defined in ORS 401.710, unless the caller**
25 **consents to the disclosure or, if the caller is unable to consent, a parent, the spouse, the**
26 **guardian or another legally recognized representative of the caller consents to the disclo-**
27 **sure. When determining whether the public interest requires disclosure in the particular**
28 **instance, the interest to be balanced against the public's interest in disclosure is the caller's**
29 **interest in the privacy of the audio recording.**

30 **(b) Notwithstanding paragraph (a) of this subsection:**

31 **(A) The following may obtain an audio recording of the voice of a caller making an**
32 **emergency call to a public safety answering point:**

33 **(i) A district attorney, as defined in ORS 131.005.**

34 **(ii) A law enforcement officer, as defined in ORS 133.726.**

35 **(iii) An attorney for a defendant in a criminal proceeding, as defined in ORS 131.005, when**
36 **the audio recording could lead to the discovery of admissible evidence.**

37 **(iv) An emergency service agency, as defined in ORS 401.025, for use in training an**
38 **emergency service worker, as defined in ORS 401.025.**

39 **(v) An employee of a 9-1-1 jurisdiction, as defined in ORS 401.710, for use in training an**
40 **employee of a 9-1-1 jurisdiction.**

41 **(vi) An employee of a rural fire protection district organized under ORS chapter 478 for**
42 **use in training an employee of a rural fire protection district.**

43 **(vii) A labor organization, as defined in ORS 663.005, for use in an action by an employer**
44 **against a member of the labor organization for the purpose of punishing the member.**

45 **(B) A person may obtain a transcript of an audio recording of the voice of a caller mak-**

1 **ing an emergency call to a public safety answering point.**

2
