

# Senate Bill 1092

Sponsored by Senator HASS; Senator BATES (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires district attorney or other person filing juvenile delinquency petition to notify school when student of school is subject of petition. Requires principal to notify necessary school personnel of petition. Permits expungement of information relating to notice maintained by school. Mandates standards for maintenance and destruction of juvenile court information held by school. Reduces to five days period for notification of school of criminal charges against student pending in adult court.

## A BILL FOR AN ACT

1  
2 Relating to disclosure of information about students involved in justice system; creating new pro-  
3 visions; and amending ORS 339.317, 339.319, 339.321, 339.323, 419A.004, 419A.015, 419A.255,  
4 419A.260, 419A.262 and 419A.300.

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

6 **SECTION 1. Sections 2 and 3 of this 2008 Act are added to and made a part of ORS**  
7 **chapter 419A.**

8 **SECTION 2. (1) When a petition is filed alleging that a youth is within the jurisdiction**  
9 **of the court under ORS 419C.005, the district attorney or other person filing the petition**  
10 **under ORS 419C.250 shall notify the principal of the school in which the youth is enrolled.**  
11 **If the person filing the petition cannot determine the school, the person shall notify the su-**  
12 **perintendent of the school district in which the youth resides. Upon receipt of notice under**  
13 **this section, the superintendent shall forward the notice to the principal of the school in**  
14 **which the youth is enrolled.**

15 **(2) The notice required under subsection (1) of this section must include:**

16 **(a) The name and date of birth of the youth;**

17 **(b) The names and addresses of the youth's parents or guardians;**

18 **(c) The alleged basis for the juvenile court's jurisdiction over the youth; and**

19 **(d) The act alleged in the petition that if committed by an adult would constitute a crime.**

20 **(3) The notice required under subsection (1) of this section must be given within 15 days**  
21 **after the petition is filed.**

22 **(4) A person is not civilly or criminally liable for failing to give notice as required under**  
23 **this section.**

24 **SECTION 3. (1) If the court sets aside or dismisses a petition as provided in ORS**  
25 **419C.261, or if the court determines that the youth is not within the jurisdiction of the ju-**  
26 **venile court after a hearing on the merits of the petition, the district attorney or other**  
27 **person prosecuting the case shall notify the principal of the school in which the youth is**  
28 **enrolled. If the person prosecuting the case is unable to determine the school, the person**  
29 **shall notify the superintendent of the school district in which the youth resides. Upon receipt**

**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 of notice under this section, the superintendent shall forward the notice to the principal of  
 2 the school in which the youth is enrolled.

3 (2) The notice required under subsection (1) of this section must include:

4 (a) The name and date of birth of the youth;

5 (b) The names and addresses of the youth's parents or guardians; and

6 (c) A notation that the court has set aside or dismissed the petition or that the court  
 7 has determined that the youth is not within the jurisdiction of the juvenile court.

8 **SECTION 4.** (1) As used in this section:

9 (a) "Principal" means a person having general administrative control and supervision of  
 10 a school.

11 (b) "School" means a public or private institution of learning providing education to one  
 12 or more instructional levels from kindergarten through grade 12, or equivalent instructional  
 13 levels.

14 (c) "School subcontractor" includes companies contracting with a school to provide ser-  
 15 vices to students throughout the school day and the employees of contracting companies that  
 16 provide the contracted services. "School subcontractor" includes, but is not limited to:

17 (A) Transportation providers.

18 (B) Food service workers.

19 (C) Daytime building maintenance workers.

20 (D) Health center workers or nurses.

21 (E) Library personnel.

22 (F) Translators.

23 (d) "Youth" has the meaning given that term in ORS 419A.005.

24 (2) Within 48 hours after receiving notice under section 2 of this 2008 Act, a principal  
 25 shall notify school employees and school subcontractors who are, or who have the potential  
 26 to be, in direct contact with a youth that a petition alleging that the youth is within the ju-  
 27 risdiction of the juvenile court under ORS 419C.005 has been filed. The principal shall release  
 28 any information contained in the notice that the principal determines is necessary for the  
 29 purpose of:

30 (a) Arranging appropriate counseling and education for the youth; or

31 (b) Protecting school employees, school subcontractors and other students.

32 (3) Upon receipt of notice under section 3 of this 2008 Act, the principal shall notify  
 33 school employees and school subcontractors notified under subsection (2) of this section that  
 34 the court has set aside or dismissed the petition or determined that the youth is not within  
 35 the jurisdiction of the juvenile court.

36 (4)(a) A principal shall maintain a notice received under section 2 or 3 of this 2008 Act,  
 37 and copies of any reports or other material obtained from the juvenile court pursuant to ORS  
 38 419A.255 (2), in a file separate from the youth's educational record.

39 (b) If the youth transfers from a school, the principal who received a notice under section  
 40 2 of this 2008 Act shall send the record containing the notice to the principal of the school  
 41 to which the youth transfers. The principal of the school from which the youth transfers  
 42 shall return to the court copies of any reports or other material obtained from the juvenile  
 43 court pursuant to ORS 419A.255 (2).

44 (c) The principal shall destroy all documents relating to a notice, including but not lim-  
 45 ited to the notice and copies of any reports or other material contained in the separate pe-

1 **tion notice file, upon the youth's graduation from high school, the youth's attaining 21**  
 2 **years of age, the principal's receipt of notice under section 3 of this 2008 Act or the princi-**  
 3 **pal's receipt of notice from the court that a petition is expunged from the youth's juvenile**  
 4 **record, whichever occurs first.**

5 **(5) Information obtained under this section or under section 2 or 3 of this 2008 Act may**  
 6 **not be used for admissions or disciplinary decisions concerning the youth, unless the vio-**  
 7 **lation occurred:**

8 **(a) During a school function;**

9 **(b) On school property; or**

10 **(c) Within 1,500 feet of school property.**

11 **(6) If a youth transfers to an Oregon school from a school outside the state, the principal**  
 12 **of the Oregon school shall contact the youth's former school and request any information**  
 13 **that the youth's former school may have relating to the youth's history of engaging in ac-**  
 14 **tivity that is likely to place at risk the safety of school employees, school subcontractors or**  
 15 **other students or that requires arrangement of appropriate counseling or education for the**  
 16 **youth. Upon receipt of information that the youth has a history of engaging in activity that**  
 17 **is likely to place at risk the safety of school employees, school subcontractors or other stu-**  
 18 **dents, the principal shall notify school employees and school subcontractors who are, or who**  
 19 **have the potential to be, in direct contact with the youth.**

20 **(7) Except as provided in this section, information contained in a notice required under**  
 21 **section 2 or 3 of this 2008 Act or obtained from an out-of-state school under subsection (6)**  
 22 **of this section is confidential. Persons receiving information contained in a notice required**  
 23 **under sections 2 and 3 of this 2008 Act or obtained from an out-of-state school under sub-**  
 24 **section (6) of this section may not disclose any information relating to a petition or discuss**  
 25 **the information contained in a notice with anyone other than:**

26 **(a) The youth;**

27 **(b) The youth's parent or guardian;**

28 **(c) The principal or school superintendent;**

29 **(d) School employees or school subcontractors notified under subsection (2) or (3) of this**  
 30 **section;**

31 **(e) Law enforcement personnel; and**

32 **(f) The youth's probation officer or juvenile counselor.**

33 **(8) A person is not civilly or criminally liable for giving or failing to give the notices re-**  
 34 **quired under this section.**

35 **SECTION 5.** ORS 339.317 is amended to read:

36 339.317. (1) No later than [15] **five** days after a person under 18 years of age is charged with a  
 37 crime under ORS 137.707 or is waived under ORS 419C.349, 419C.352 or 419C.364, the district at-  
 38 torney or city attorney, if the person is waived to municipal court, shall [*notify*] **give notice of the**  
 39 **charge to the principal of the school in which the person is enrolled or, if the district at-**  
 40 **torney or city attorney is unable to determine the school, the superintendent of the school**  
 41 **district in which the person resides [*of that fact*]. The district attorney or city attorney shall include**  
 42 **in the notice the crime with which the person is charged.**

43 (2) [*A district attorney, city attorney or anyone employed by or acting on behalf of a district at-*  
 44 *torney or city attorney*] **A person** who sends records under this section is not [*liable*] civilly or  
 45 criminally **liable** for failing to disclose the information under this section.

1        **SECTION 6.** ORS 339.319 is amended to read:

2        339.319. (1) When a person under 18 years of age is convicted of a crime under ORS 137.707 or  
3 following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 (1)(b), the agency supervising  
4 the person shall [*notify the*] **give notice of the conviction within five days after sentencing to**  
5 **the principal of the school in which the person is enrolled or, if the agency is unable to de-**  
6 **termine the school, the superintendent of the school district** in which the person resides [*of that*  
7 *fact within five days following sentencing*]. The agency supervising the person shall include in the  
8 notice:

9        (a) **The name and date of birth of the person;**

10       (b) **The names and addresses of the person's parents or guardians;**

11       [(a)] (c) The crime of conviction;

12       [(b)] (d) The sentence imposed; and

13       [(c)] (e) If the person is released on any type of release, whether school attendance is a condi-  
14 tion of the release.

15       (2) An agency supervising a person or anyone employed by or acting on behalf of an agency  
16 supervising a person who sends records under this section is not [*liable*] civilly or criminally **liable**  
17 for failing to disclose the information under this section.

18       **SECTION 7.** ORS 339.321 is amended to read:

19       339.321. (1) No later than 15 days [*prior to*] **before** the release or discharge of a person com-  
20 mitted to the legal custody of the Department of Corrections or the supervisory authority of a  
21 county under ORS 137.707 or following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370,  
22 the department or supervisory authority, as appropriate, shall notify the following of the release or  
23 discharge if the person is under 21 years of age at the time of the release:

24       (a) Law enforcement agencies in the community in which the person is going to reside; and

25       (b) The school district in which the person is going to reside.

26       (2) The department or supervisory authority shall include in the notification:

27       (a) The person's name, **date of birth** and date of release or discharge;

28       (b) **The person's address;**

29       (c) **The names and addresses of the person's parents or guardians;**

30       [(b)] (d) The type of supervision under which the person is released; and

31       [(c)] (e) Whether school attendance is a condition of release.

32       (3) The department, supervisory authority or anyone employed by or acting on behalf of the  
33 department or supervisory authority who sends records under this section is not [*liable*] civilly or  
34 criminally **liable** for failing to disclose the information under this section.

35       **SECTION 8.** ORS 339.323 is amended to read:

36       339.323. (1) When a school district receives notice under ORS 339.317, 339.319, 339.321 or  
37 420A.122, the school district may disclose the information only to those school employees **and**  
38 **school subcontractors, as defined in section 4 of this 2008 Act, whom** the district determines  
39 need the information in order to safeguard the safety and security of the school, students and staff.  
40 A person to whom personally identifiable information is disclosed under this subsection may not  
41 disclose the information to another person except to carry out the provisions of this subsection.

42       (2) A school district or anyone employed by or acting on behalf of a school district who receives  
43 notice under ORS 339.317, 339.319, 339.321 or 420A.122 is not [*liable*] civilly or criminally **liable** for  
44 failing to disclose the information.

45       **SECTION 9.** ORS 419A.004 is amended to read:

1 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires  
2 otherwise:

3 (1) "CASA Volunteer Program" means a program approved or sanctioned by the juvenile court  
4 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

5 (2) "Child care center" means a residential facility for wards or youth offenders that is licensed  
6 under the provisions of ORS 418.240.

7 (3) "Community service" has the meaning given that term in ORS 137.126.

8 (4) "Conflict of interest" means a person appointed to a local citizen review board who has a  
9 personal or pecuniary interest in a case being reviewed by that board.

10 (5) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

11 (6) "Court" means the juvenile court.

12 (7) "Court appointed special advocate" or "CASA" means a person appointed by the court pur-  
13 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

14 (8) "Court facility" has the meaning given that term in ORS 166.360.

15 (9) "Department" means the Department of Human Services.

16 (10) "Detention" or "detention facility" means a facility established under ORS 419A.010 to  
17 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders  
18 pursuant to a judicial commitment or order.

19 (11) "Director" means the director of a juvenile department established under ORS 419A.010 to  
20 419A.020 and 419A.050 to 419A.063.

21 (12) "Guardian" means guardian of the person and not guardian of the estate.

22 (13) "Indian child" means any unmarried person less than 18 years of age who is:

23 (a) A member of an Indian tribe; or

24 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-  
25 dian tribe.

26 (14) "Juvenile court" means the court having jurisdiction of juvenile matters in the several  
27 counties of this state.

28 (15) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

29 (16) "Parent" means the biological or adoptive mother and the legal father of the child, ward,  
30 youth or youth offender. As used in this subsection, "legal father" means:

31 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been  
32 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

33 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-  
34 cable tribal law.

35 (17) "Permanent foster care" means an out-of-home placement in which there is a long-term  
36 contractual foster care agreement between the foster parents and the department that is approved  
37 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or  
38 youth offender until the age of majority.

39 (18) "Planned permanent living arrangement" means an out-of-home placement other than by  
40 adoption, placement with a relative or placement with a legal guardian that is consistent with the  
41 case plan and in the best interests of the ward.

42 (19) "**Principal**" has the meaning given that term in section 4 of this 2008 Act.

43 [(19)] (20) "Public building" has the meaning given that term in ORS 166.360.

44 [(20)] (21) "Reasonable time" means a period of time that is reasonable given a child or ward's  
45 emotional and developmental needs and ability to form and maintain lasting attachments.

1        [(21)] **(22)** “Records” means any information in written form, pictures, photographs, charts,  
2 graphs, recordings or documents pertaining to a case.

3        [(22)] **(23)** “Resides” or “residence,” when used in reference to the residence of a child, ward,  
4 youth or youth offender, means the place where the child, ward, youth or youth offender is actually  
5 living or the jurisdiction in which wardship or jurisdiction has been established.

6        [(23)] **(24)** “Restitution” has the meaning given that term in ORS 137.103.

7        **(25) “School” has the meaning given that term in section 4 of this 2008 Act.**

8        [(24)] **(26)** “Serious physical injury” means:

9        (a) A serious physical injury as defined in ORS 161.015; or

10        (b) A physical injury that:

11        (A) Has a permanent or protracted significant effect on a child’s daily activities;

12        (B) Results in substantial and recurring pain; or

13        (C) In the case of a child under 10 years of age, is a broken bone.

14        [(25)] **(27)** “Shelter care” means a home or other facility suitable for the safekeeping of a child,  
15 ward, youth or youth offender who is taken into temporary custody pending investigation and dis-  
16 position.

17        [(26)] **(28)** “Short-term detention facility” means a facility established under ORS 419A.050 (3) for  
18 holding children, youths and youth offenders pending further placement.

19        [(27)] **(29)** “Sibling” means one of two or more children or wards related:

20        (a) By blood or adoption through a common legal parent; or

21        (b) Through the marriage of the children’s or wards’ legal or biological parents.

22        [(28)] **(30)** “Substitute care” means an out-of-home placement directly supervised by the depart-  
23 ment or other agency, including placement in a foster family home, group home or other child caring  
24 institution or facility. “Substitute care” does not include care in:

25        (a) A detention facility, forestry camp or youth correction facility;

26        (b) A family home that the court has approved as a ward’s permanent placement, when a private  
27 child caring agency has been appointed guardian of the ward and when the ward’s care is entirely  
28 privately financed; or

29        (c) In-home placement subject to conditions or limitations.

30        [(29)] **(31)** “Surrogate” means a person appointed by the court to protect the right of the child,  
31 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free  
32 appropriate public education.

33        [(30)] **(32)** “Tribal court” means a court with jurisdiction over child custody proceedings and  
34 that is either a Court of Indian Offenses, a court established and operated under the code of custom  
35 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child  
36 custody proceedings.

37        [(31)] **(33)** “Victim” means any person determined by the district attorney or juvenile department  
38 to have suffered direct financial, psychological or physical harm as a result of an act that has  
39 brought the youth or youth offender before the juvenile court. When the victim is a minor,  
40 “victim” includes the legal guardian of the minor. The youth or youth offender may not be consid-  
41 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-  
42 presented by the district attorney, are considered the victims.

43        [(32)] **(34)** “Violent felony” means any offense that, if committed by an adult, would constitute  
44 a felony and:

45        (a) Involves actual or threatened serious physical injury to a victim; or

1 (b) Is a sexual offense. As used in this paragraph, “sexual offense” has the meaning given the  
2 term “sex crime” in ORS 181.594.

3 [(33)] (35) “Ward” means a person within the jurisdiction of the juvenile court under ORS  
4 419B.100.

5 [(34)] (36) “Young person” means a person who has been found responsible except for insanity  
6 under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

7 [(35)] (37) “Youth” means a person under 18 years of age who is alleged to have committed an  
8 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance  
9 of the United States or a state, county or city.

10 [(36)] (38) “Youth care center” has the meaning given that term in ORS 420.855.

11 [(37)] (39) “Youth offender” means a person who has been found to be within the jurisdiction  
12 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years  
13 of age.

14 **SECTION 10.** ORS 419A.015 is amended to read:

15 419A.015. (1)(a) Once each month, a county juvenile department shall provide to each school  
16 district in the county a list of all youth offenders enrolled in a school in the school district who are  
17 on probation by order of the juvenile court in the county. The department shall include in the list  
18 the name and business telephone number of the juvenile counselor assigned to each case.

19 (b) When a youth offender who is on probation transfers from one school district to a different  
20 school district, the juvenile counselor assigned to the case shall notify the superintendent of the  
21 school district to which the youth offender has transferred of the youth offender’s probation status.  
22 The juvenile counselor shall make the notification no later than 72 hours after the juvenile coun-  
23 selor knows of the transfer.

24 (2) Upon request by **the principal of the school in which the youth offender is enrolled or**  
25 **upon request by** the school district, the juvenile department shall provide additional information,  
26 including the offense that brought the youth offender within the jurisdiction of the juvenile court  
27 and such other information that is subject to disclosure under ORS 419A.255 (5). **The information**  
28 **provided to the principal or the school district under this subsection must be maintained or**  
29 **destroyed as required by section 4 of this 2008 Act.**

30 (3) In addition to the general notification required by subsection (1) of this section, the juvenile  
31 department[.],

32 [(a)] shall notify the school district of the specific offense [*if the act*] bringing the youth offender  
33 within the jurisdiction of the juvenile court **and whether the act** involved a firearm or delivery of  
34 a controlled substance.

35 [(b) *May notify the school district of the specific offense if the act bringing the youth offender*  
36 *within the jurisdiction of the juvenile court involved a violation of ORS 163.355 to 163.445 or 163.465*  
37 *or any other offense if the juvenile department believes the youth offender represents a risk to other*  
38 *students or school staff.*]

39 (4) When a school district receives notice under this section, the school district may disclose the  
40 information only to those school employees **or school subcontractors, as defined in section 4 of**  
41 **this 2008 Act**, the district determines need the information in order to safeguard the safety and  
42 security of the school, students and staff. A person to whom personally identifiable information is  
43 disclosed under this subsection may not disclose the information to another person except to carry  
44 out the provisions of this subsection.

45 (5) Except as otherwise provided in ORS 192.490, a juvenile department, school district or any-

1 one employed or acting on behalf of a juvenile department or school district who sends or receives  
 2 records under this section is not [*liable*] civilly or criminally **liable** for failing to disclose the infor-  
 3 mation under this section.

4 **SECTION 11.** ORS 419A.255 is amended to read:

5 419A.255. (1) The clerk of the court shall keep a record of each case, including therein the  
 6 summons and other process, the petition and all other papers in the nature of pleadings, motions,  
 7 orders of the court and other papers filed with the court, but excluding reports and other material  
 8 relating to the child, ward, youth or youth offender's history and prognosis. The record of the case  
 9 shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth  
 10 offender, parent, guardian, court appointed special advocate, surrogate or a person allowed to in-  
 11 tervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys. The  
 12 attorneys are entitled to copies of the record of the case.

13 (2) Reports and other material relating to the child, ward, youth or youth offender's history and  
 14 prognosis are privileged and, except at the request of the child, ward, youth or youth offender, may  
 15 not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those  
 16 acting under the judge's direction, service providers in the case and the attorneys of record for the  
 17 child, ward, youth or youth offender or the child, ward, youth or youth offender's parent, guardian,  
 18 court appointed special advocate, surrogate or person allowed to intervene in a proceeding involving  
 19 the child, ward, youth or youth offender. Reports and other material relating to a youth offender's  
 20 history and prognosis in cases under ORS 419C.005 may be disclosed to the **principal of the school**  
 21 **in which the youth offender is enrolled or to the** superintendent of the school district in which  
 22 the youth offender resides. The service providers in the case, **principals**, school superintendents and  
 23 attorneys are entitled to examine and obtain copies of any reports or other material relating to the  
 24 child, ward, youth or youth offender's history and prognosis. Any service provider in the case, school  
 25 superintendent, **principal** or attorney who examines or obtains copies of such reports or materials  
 26 is responsible for preserving their confidentiality. A service provider or school superintendent who  
 27 obtains copies of such reports or materials shall return the copies to the court upon the conclusion  
 28 of the service provider's or superintendent's involvement in the case. **A school principal who ob-**  
 29 **tains copies of any reports or of other material under this subsection shall maintain or de-**  
 30 **stroy the copies of the reports or other material as required by section 4 of this 2008 Act.**

31 (3) Except as otherwise provided in subsection (7) of this section, no information appearing in  
 32 the record of the case or in reports or other material relating to the child, ward, youth or youth  
 33 offender's history or prognosis may be disclosed to any person not described in subsection (2) of this  
 34 section without the consent of the court, except for purposes of evaluating the child, ward, youth  
 35 or youth offender's eligibility for special education as provided in ORS chapter 343, and no such  
 36 information may be used in evidence in any proceeding to establish criminal or civil liability against  
 37 the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward,  
 38 youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

39 (a) In connection with a presentence investigation after guilt has been admitted or established  
 40 in a criminal court.

41 (b) In connection with a proceeding in another juvenile court concerning the child, ward, youth  
 42 or youth offender or an appeal from the juvenile court.

43 (4) If the court finds that the child, ward, youth, youth offender or parent is without financial  
 44 means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court  
 45 shall order upon motion the transcript or part thereof to be furnished. The transcript or part thereof



1 furnished under this subsection shall be paid for in the same manner as furnished transcripts are  
 2 paid for in criminal cases.

3 (5) Notwithstanding any other provision of law, the following are not confidential and not ex-  
 4 empt from disclosure:

5 (a) The name and date of birth of the youth or youth offender;

6 (b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

7 (c) The date, time and place of any juvenile court proceeding in which the youth or youth  
 8 offender is involved;

9 (d) The act alleged in the petition that if committed by an adult would constitute a crime if ju-  
 10 risdiction is based on ORS 419C.005;

11 (e) That portion of the juvenile court order providing for the legal disposition of the youth or  
 12 youth offender when jurisdiction is based on ORS 419C.005;

13 (f) The names and addresses of the youth or youth offender's parents or guardians; and

14 (g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

15 (6) Notwithstanding any other provision of law, when a youth has been taken into custody under  
 16 ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is  
 17 a clear need to delay disclosure in the course of a specific investigation, including the need to pro-  
 18 tect the complaining party or the victim:

19 (a) The youth's name and age and whether the youth is employed or in school;

20 (b) The youth offense for which the youth was taken into custody;

21 (c) The name and age of the adult complaining party and the adult victim, unless the disclosure  
 22 of such information is otherwise prohibited or restricted;

23 (d) The identity of the investigating and arresting agency; and

24 (e) The time and place that the youth was taken into custody and whether there was resistance,  
 25 pursuit or a weapon used in taking the youth into custody.

26 (7)(a) Information contained in reports and other materials relating to a child, ward, youth or  
 27 youth offender's history and prognosis that, in the professional judgment of the juvenile counselor,  
 28 caseworker, school superintendent, teacher or detention worker to whom the information for the  
 29 reports or other materials has been provided, indicates a clear and immediate danger to another  
 30 person or to society shall be disclosed to the appropriate authority and the person or entity who is  
 31 in danger from the child, ward, youth or youth offender.

32 (b) An agency or a person who discloses information under paragraph (a) of this subsection has  
 33 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for  
 34 making the disclosure.

35 (c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040  
 36 and 419B.045. The disclosure of information under this section does not make the information ad-  
 37 missible in any court or administrative proceeding if it is not otherwise admissible.

38 **(8) If the records of a youth, youth offender or young person are subject to disclosure,**  
 39 **the agency or entity responsible for disclosing records is as follows:**

40 **(a) For youth records subject to disclosure under sections 2 and 3 of this 2008 Act, a**  
 41 **district attorney, the Attorney General or a juvenile department counselor authorized to file**  
 42 **petitions under ORS 419C.250.**

43 **(b) For records of young persons subject to disclosure under ORS 419A.300, the Depart-**  
 44 **ment of Human Services.**

45 **(c) For youth offender records subject to disclosure under ORS 420.048, the Oregon Youth**

1 **Authority.**

2 [(8)] (d) **For all other records subject to disclosure**, a county juvenile department. [*is the*  
3 *agency responsible for disclosing youth and youth offender records if the records are subject to dis-*  
4 *closure.*]

5 (9) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within  
6 the jurisdiction of the court, or a motion requesting an implementation plan other than return of a  
7 ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country  
8 as provided under ORS 419B.851 (3).

9 (10) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from  
10 disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a  
11 guardian.

12 (11) The court shall cooperate in the sharing of information with a court in another state to  
13 facilitate an interstate placement of a child or ward.

14 **SECTION 12.** ORS 419A.260 is amended to read:

15 419A.260. (1) As used in this section and ORS 419A.262:

16 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-  
17 ior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to  
18 (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this sub-  
19 section.

20 (b) "Expunction" means:

21 (A) The removal and destruction or sealing of a judgment or order related to a contact and all  
22 records and references; [*and*]

23 (B) Where a record is kept by the Department of Human Services or the Oregon Youth Au-  
24 thority, either the sealing of such record by the department or the Oregon Youth Authority or, in  
25 a multiperson file, the affixing to the front of the file, by the department or the youth authority, a  
26 stamp or statement identifying the name of the individual, the date of expunction and instruction  
27 that no further reference shall be made to the material that is subject to the expunction order ex-  
28 cept upon an order of a court of competent jurisdiction[.]; **and**

29 **(C) Where a separate file relating to a petition filed under ORS 419C.005 is maintained**  
30 **by a school principal pursuant to section 4 of this 2008 Act, the removal and destruction of**  
31 **the separate file.**

32 (c) "Person" includes a person under 18 years of age.

33 (d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which  
34 contains information relating to a person's contact with any law enforcement agency or juvenile  
35 court or juvenile department and is kept manually, through the use of electronic data processing  
36 equipment, or by any other means by a law enforcement or public investigative agency, a juvenile  
37 court or juvenile department, [*or*] an agency of the State of Oregon **or a school within the state.**  
38 "Record" does not include:

39 (A) A transcript of a student's Youth Corrections Education Program academic record;

40 (B) Material on file with a public agency which is necessary for obtaining federal financial  
41 participation regarding financial assistance or services on behalf of a person who has had a contact;

42 (C) Records kept or disseminated by the Department of Transportation, State Marine Board and  
43 State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

44 (D) Police and court records related to an order of waiver where the matter is still pending in  
45 the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

- 1 (E) Records related to a support obligation;
- 2 (F) Medical records;
- 3 (G) Records of a proposed or adjudicated termination of parental rights and adoptions;
- 4 (H) Any law enforcement record of a person who currently does not qualify for expunction or  
5 of current investigations or cases waived to the adult court;
- 6 (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;
- 7 (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be  
8 within the jurisdiction of the court based upon the person’s commission of an act which if done by  
9 an adult would constitute one of the following offenses:
- 10 (i) Aggravated murder under ORS 163.095;
- 11 (ii) Murder under ORS 163.115;
- 12 (iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;
- 13 (iv) Manslaughter in the first degree under ORS 163.118;
- 14 (v) Manslaughter in the second degree under ORS 163.125;
- 15 (vi) Criminally negligent homicide under ORS 163.145;
- 16 (vii) Assault in the first degree under ORS 163.185;
- 17 (viii) Criminal mistreatment in the first degree under ORS 163.205;
- 18 (ix) Kidnapping in the first degree under ORS 163.235;
- 19 (x) Rape in the third degree under ORS 163.355;
- 20 (xi) Rape in the second degree under ORS 163.365;
- 21 (xii) Rape in the first degree under ORS 163.375;
- 22 (xiii) Sodomy in the third degree under ORS 163.385;
- 23 (xiv) Sodomy in the second degree under ORS 163.395;
- 24 (xv) Sodomy in the first degree under ORS 163.405;
- 25 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;
- 26 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;
- 27 (xviii) Sexual abuse in the third degree under ORS 163.415;
- 28 (xix) Sexual abuse in the second degree under ORS 163.425;
- 29 (xx) Sexual abuse in the first degree under ORS 163.427;
- 30 (xxi) Promoting prostitution under ORS 167.012;
- 31 (xxii) Compelling prostitution under ORS 167.017;
- 32 (xxiii) Aggravated vehicular homicide under ORS 163.149; or
- 33 (xxiv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the  
34 second degree and criminally negligent homicide;
- 35 (K) Blood samples, buccal samples and other physical evidence and identification information  
36 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,  
37 181.085 or 419C.473; *[or]*
- 38 (L) Records maintained in the Law Enforcement Data System under ORS 181.592[.]; **or**
- 39 **(M) Educational records held or maintained by a school or school district that are held**  
40 **or maintained separately from the file maintained pursuant to section 4 of this 2008 Act.**
- 41 (e) “Termination” means:
- 42 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,  
43 the final disposition of a case by informal means, by a decision not to place the person on probation  
44 or make the person a ward of the court after the person has been found to be within the court’s  
45 jurisdiction, or by a discontinuance of probation or of the court’s wardship.

1 (B) For a person who is the subject of a record kept by a law enforcement or public investi-  
 2 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final  
 3 disposition of the person's most recent contact with a law enforcement agency.

4 (2) The juvenile court or juvenile department shall make reasonable effort to provide written  
 5 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or  
 6 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's  
 7 parent, of the procedures for expunction of a record, the right to counsel under this chapter, the  
 8 legal effect of an expunction order and the procedures for seeking relief from the duty to report as  
 9 a sex offender provided under ORS 181.823, at the following times:

10 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-  
 11 ment;

12 (b) At the time of termination;

13 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile  
 14 department or motion on a juvenile court; and

15 (d) At the time of notice of execution of an expunction order.

16 **SECTION 13.** ORS 419A.262 is amended to read:

17 419A.262. (1) An expunction proceeding shall be commenced in the county where the subject  
 18 person resided at the time of the most recent termination.

19 (2) Upon application of either a person who is the subject of a record or a juvenile department,  
 20 or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter  
 21 is contested, it finds that:

22 (a) At least five years have elapsed since the date of the person's most recent termination;

23 (b) Since the date of the most recent termination, the person has not been convicted of a felony  
 24 or a Class A misdemeanor;

25 (c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are  
 26 pending against the person;

27 (d) The person is not within the jurisdiction of any juvenile court on the basis of a petition al-  
 28 leging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; and

29 (e) The juvenile department is not aware of any pending investigation of the conduct of the  
 30 person by any law enforcement agency.

31 (3) In the case of an application by the juvenile department or of the court acting upon its own  
 32 motion, expunction shall not be ordered if actual notice of expunction has not been given to the  
 33 person in accordance with subsection (10) of this section unless the person has reached 21 years of  
 34 age.

35 (4) When a person who is the subject of a record kept by a juvenile court or juvenile department  
 36 reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order  
 37 expunction if:

38 (a) The person never has been found to be within the jurisdiction of the court; or

39 (b) The conditions of subsection (2) of this section have been met.

40 (5) Expunction shall not be ordered under this section if actual notice of expunction has not  
 41 been given to the person in accordance with subsection (10) of this section unless the person has  
 42 reached 21 years of age.

43 (6) Subsections (4) and (5) of this section apply only to cases resulting in termination after  
 44 September 13, 1975.

45 (7) Notwithstanding subsections (2) and (4) to (6) of this section, upon application of a person

1 who is the subject of a record kept by a juvenile court or juvenile department, upon application of  
2 the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter  
3 is contested, may order expunction of all or any part of the person's record if it finds that to do so  
4 would be in the best interests of the person and the public. In the case of an application by the ju-  
5 venile department or of the court acting upon its own motion, expunction shall not be ordered if  
6 actual notice of expunction has not been given to the person in accordance with subsection (10) of  
7 this section unless the person has reached 21 years of age.

8 (8)(a) When an expunction proceeding is commenced by application of the person whose records  
9 are to be expunged, the person shall set forth as part of the application the names of the juvenile  
10 courts, juvenile departments, **schools**, institutions and law enforcement and other agencies that the  
11 person has reason to believe possess an expungible record of the person.

12 (b) The juvenile department shall provide the names and addresses of the juvenile courts, juve-  
13 nile departments, institutions, **schools** and law enforcement and other agencies that a reasonable  
14 search of department files indicates have expungible records.

15 (9) When an expunction proceeding is commenced by application of the juvenile department or  
16 upon the court's own motion, the application or motion shall set forth the names and addresses of  
17 the juvenile courts, juvenile departments, **schools**, institutions and law enforcement and other  
18 agencies that a reasonable search of department files indicates have expungible records and those  
19 provided by the subject person.

20 (10)(a) Notice and a copy of an application for expunction under subsections (2) to (7) of this  
21 section shall be given to:

22 (A) The district attorney of the county in which the expunction proceeding is commenced and  
23 the district attorney of each county in which the record sought to be expunged is kept; and

24 (B) The person who is the subject of the record if the person has not initiated the expunction  
25 proceeding.

26 (b) A district attorney who receives notice under this subsection shall notify the victim of the  
27 acts that resulted in the disposition that is the subject of the application for expunction and shall  
28 mail a copy of the application for expunction to the victim's last known address.

29 (11) Within 30 days of receiving the notice of application for expunction under subsection (10)  
30 of this section, a district attorney shall give written notice of any objection and the grounds therefor  
31 to the person whose records are to be expunged and to the juvenile court. If no objection is filed  
32 the court may decide the issue of expunction either without a hearing or after full hearing pursuant  
33 to subsections (12) to (15) of this section.

34 (12) When an expunction is pending pursuant to subsections (2) to (7) of this section, the court  
35 may proceed with or without a hearing, except that:

36 (a) The court may not enter an expunction judgment without a hearing if a timely objection to  
37 expunction has been filed pursuant to subsection (11) of this section; and

38 (b) The court may not deny an expunction without a hearing if the proceeding is based on an  
39 application of the subject.

40 (13)(a) Notice of a hearing on a pending expunction shall be served on the subject and any dis-  
41 trict attorney filing a timely objection pursuant to subsection (11) of this section.

42 (b) When a district attorney receives notice of a hearing for expunction of a record concerning  
43 a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted  
44 in the disposition that is the subject of the application for expunction requests, the district attorney  
45 shall mail notice of the hearing to the victim's last-known address.

1 (14) The court shall conduct a hearing on a pending expunction in accord with the provisions  
2 of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and  
3 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as  
4 defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting  
5 expunction.

6 (15) At the conclusion of a hearing on a pending expunction, the court shall issue judgment  
7 granting or denying expunction.

8 (16) The juvenile court or juvenile department shall send a copy of an expunction judgment to  
9 each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall  
10 comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile  
11 department with an indorsement indicating compliance.

12 (17) When all agencies subject to an expunction judgment have indicated their compliance or in  
13 any event no later than six weeks following the date the judgment was delivered as required by  
14 subsection (16) of this section, the juvenile court shall provide the person who is the subject of the  
15 record with a copy of the expunction judgment, a list of complying and noncomplying agencies, and  
16 a written notice of rights and effects of expunction. The juvenile court and juvenile department then  
17 shall expunge forthwith all records which they possess and which are subject to the judgment, ex-  
18 cept the original expunction judgment and the list of complying and noncomplying agencies which  
19 must be preserved under seal.

20 (18) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit, munic-  
21 ipal and justice courts, and the district and city attorneys of this state, are bound by an expunction  
22 judgment of any juvenile court of appropriate jurisdiction in this state issuing an expunction judg-  
23 ment.

24 (19) Upon entry of an expunction judgment, the contact that is the subject of the expunged re-  
25 cord shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall  
26 respond to any inquiry about the contact by indicating that no record or reference concerning the  
27 contact exists.

28 (20) A person who is the subject of a record that has been expunged under this section may  
29 assert that the record never existed and that the contact, which was the subject of the record, never  
30 occurred without incurring a penalty for perjury or false swearing under the laws of this state.

31 (21) Juvenile courts, by court rule or by order related to a particular matter, may direct that  
32 records concerning a subject person be destroyed. No such records shall be destroyed until at least  
33 three years have elapsed after the date of the subject's most recent termination. In the event the  
34 record has been expunged, the expunction judgment and list of complying and noncomplying agen-  
35 cies may not be destroyed, but shall be preserved under seal. The destruction of records under this  
36 subsection does not constitute expunction.

37 (22) An expunction judgment and list of complying and noncomplying agencies shall be released  
38 from confidentiality only on order of the court originating the expunction judgment, based on a  
39 finding that review of a particular case furthers compliance with the expunction provisions of this  
40 chapter.

41 (23) A subject has a right of action against any person who intentionally violates the  
42 confidentiality provisions of this section. In any such proceeding, punitive damages up to an amount  
43 of \$1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled  
44 to costs and reasonable attorney fees.

45 (24) Intentional violation of the confidentiality provisions of this section by a public employee

1 is cause for dismissal.

2 (25) A person who intentionally releases all or part of an expunged record commits a Class C  
3 misdemeanor.

4 **SECTION 14.** ORS 419A.300 is amended to read:

5 419A.300. (1)(a) Once each month, the Department of Human Services shall provide to each  
6 school district a list of all young persons enrolled in a school in the school district who are on  
7 conditional release. The department shall include in the list the name and business telephone num-  
8 ber of the caseworker assigned to each case.

9 (b) When a young person who is on conditional release transfers from one school district to a  
10 different school district, the caseworker assigned to the case shall notify the superintendent of the  
11 school district to which the young person has transferred of the young person's status. The  
12 caseworker shall make the notification no later than 72 hours after the caseworker knows of the  
13 transfer.

14 (2) Upon request by the **principal of the school in which the young person is enrolled or**  
15 **upon request of the** school district, the department shall provide additional information, including  
16 the offense that brought the young person within the jurisdiction of the juvenile court and such  
17 other information that is subject to disclosure under ORS 419A.255 (5). **The information provided**  
18 **to the school principal or the school district under this subsection must be maintained or**  
19 **destroyed as required by section 4 of this 2008 Act.**

20 (3) In addition to the general notification required by subsection (1) of this section, the  
21 department[.] **shall notify the school district of the specific offense and whether the act in-**  
22 **involved a firearm or delivery of a controlled substance.**

23 *[(a) Shall notify the school district of the specific offense if the act that brought the young person*  
24 *within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled substance.]*

25 *[(b) May notify the school district of the specific offense if the act that brought the young person*  
26 *within the jurisdiction of the juvenile court involved a violation of ORS 163.355 to 163.445 or 163.465*  
27 *or any other offense if the department believes the young person represents a risk to other students or*  
28 *school staff.]*

29 (4) ORS 419A.015 (4) and (5) apply to persons sending or receiving records under this section.

30