

A-Engrossed
House Bill 2339

Ordered by the House April 16
Including House Amendments dated April 16

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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.

Expands exemption from disclosure of certain personal information of district attorney, deputy district attorney, Attorney General or designated assistant attorney general to include personal information contained within records of all public bodies receiving request to not disclose. **Provides exception.**

A BILL FOR AN ACT

1
2 Relating to exemptions from disclosure of information; amending ORS 192.501.

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

4 **SECTION 1.** ORS 192.501, as amended by section 1, chapter 48, Oregon Laws 2008, is amended
5 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;

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

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

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

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

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

6 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
7 from justice.

8 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
9 employment, academic or other examination or testing procedure before the examination is given
10 and if the examination is to be used again. Records establishing procedures for and instructing
11 persons administering, grading or evaluating an examination or testing procedure are included in
12 this exemption, to the extent that disclosure would create a risk that the result might be affected.

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

22 (6) Information relating to the appraisal of real estate prior to its acquisition.

23 (7) The names and signatures of employees who sign authorization cards or petitions for the
24 purpose of requesting representation or decertification elections.

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

28 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
29 663.180.

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

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

37 (12) A personnel discipline action, or materials or documents supporting that action.

38 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
39 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
40 cies.

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

43 (15) Computer programs developed or purchased by or for any public body for its own use. As
44 used in this subsection, "computer program" means a series of instructions or statements which
45 permit the functioning of a computer system in a manner designed to provide storage, retrieval and

1 manipulation of data from such computer system, and any associated documentation and source
2 material that explain how to operate the computer program. "Computer program" does not include:

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

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

6 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
7 the original data were to be produced manually.

8 (16) Data and information provided by participants to mediation under ORS 36.256.

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

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

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

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

28 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
29 247.967.

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

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

34 (b) Credit reports;

35 (c) Project appraisals;

36 (d) Market studies and analyses;

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

38 (f) Commitment letters;

39 (g) Project pro forma statements;

40 (h) Project cost certifications and cost data;

41 (i) Audits;

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

43 (k) Tenant files relating to certification; and

44 (L) Housing assistance payment requests.

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

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

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

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

7 (23) Records or information that would reveal or otherwise identify security measures, or
8 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
9 protect:

10 (a) An individual;

11 (b) Buildings or other property;

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

14 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
15 evaluation under ORS 461.180 (6).

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

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

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

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

30 (28) Social Security numbers as provided in ORS 107.840.

31 (29) The electronic mail address of a student who attends a state institution of higher education
32 listed in ORS 352.002 or Oregon Health and Science University.

33 (30) The name, home address, professional address or location of a person that is engaged in,
34 or that provides goods or services for, medical research at Oregon Health and Science University
35 that is conducted using animals other than rodents. This subsection does not apply to Oregon Health
36 and Science University press releases, websites or other publications circulated to the general pub-
37 lic.

38 *[(31)(a) If requested by a public safety officer, as defined in ORS 181.610, by a district attorney,*
39 *by a deputy district attorney or by an assistant attorney general designated by the Attorney General,*
40 *the home address and home telephone number of the public safety officer or attorney contained in the*
41 *voter registration records for the public safety officer or attorney.]*

42 *[(b) If requested by a public safety officer, as defined in ORS 181.610, the home address and home*
43 *telephone number of the public safety officer contained in records of the Department of Public Safety*
44 *Standards and Training.]*

45 *[(32) If requested by a public safety officer, as defined in ORS 181.610, by a district attorney, by*

1 a deputy district attorney or by an assistant attorney general designated by the Attorney General, the
2 name of the public safety officer or attorney contained in county real property assessment or taxation
3 records. This exemption:]

4 [(a) Applies only to the name of the public safety officer or attorney and any other owner of the
5 property in connection with a specific property identified by the officer or attorney in a request for ex-
6 emption from disclosure;]

7 [(b) Applies only to records that may be made immediately available to the public upon request in
8 person, by telephone or using the Internet;]

9 [(c) Applies until the public safety officer or attorney requests termination of the exemption;]

10 [(d) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
11 governmental purposes; and]

12 [(e) May not result in liability for a county if the name of a public safety officer or attorney is
13 disclosed after a request for exemption from disclosure is made under this subsection.]

14 **(31) If requested by a public safety officer, as defined in ORS 181.610:**

15 **(a) The home address and home telephone number of the public safety officer contained**
16 **in the voter registration records for the public safety officer.**

17 **(b) The home address and home telephone number of the public safety officer contained**
18 **in records of the Department of Public Safety Standards and Training.**

19 **(c) The name of the public safety officer contained in county real property assessment**
20 **or taxation records. This exemption:**

21 **(A) Applies only to the name of the public safety officer and any other owner of the**
22 **property in connection with a specific property identified by the officer in a request for ex-**
23 **emption from disclosure;**

24 **(B) Applies only to records that may be made immediately available to the public upon**
25 **request in person, by telephone or using the Internet;**

26 **(C) Applies until the public safety officer requests termination of the exemption;**

27 **(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109**
28 **for governmental purposes; and**

29 **(E) May not result in liability for the county if the name of the public safety officer is**
30 **disclosed after a request for exemption from disclosure is made under this subsection.**

31 **(32) If requested by a district attorney, a deputy district attorney, the Attorney General**
32 **or an assistant attorney general designated by the Attorney General, the home address,**
33 **home or cellular telephone number or personal electronic mail address contained in the re-**
34 **records of any public body that has received the request. A request for an exemption under**
35 **this subsection does not apply to disclosure of records to a financial institution or a title**
36 **company for business purposes.**

37 (33) Land management plans required for voluntary stewardship agreements entered into under
38 ORS 541.423.

39 **SECTION 2.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
40 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, and section 2, chapter
41 48, Oregon Laws 2008, is amended to read:

42 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
43 unless the public interest requires disclosure in the particular instance:

44 (1) Records of a public body pertaining to litigation to which the public body is a party if the
45 complaint has been filed, or if the complaint has not been filed, if the public body shows that such

1 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
2 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
3 or deposition statutes to a party to litigation or potential litigation.

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

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

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

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

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

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

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

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

23 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
24 from justice.

25 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
26 employment, academic or other examination or testing procedure before the examination is given
27 and if the examination is to be used again. Records establishing procedures for and instructing
28 persons administering, grading or evaluating an examination or testing procedure are included in
29 this exemption, to the extent that disclosure would create a risk that the result might be affected.

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

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41 purpose of requesting representation or decertification elections.

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43 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
44 ORS 659A.850.

45 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and

1 663.180.

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3 partment of Consumer and Business Services under ORS 697.732.

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

9 (12) A personnel discipline action, or materials or documents supporting that action.

10 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
11 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
12 cies.

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

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

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

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22 the program; or

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24 the original data were to be produced manually.

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27 until a final administrative determination is made or, if a citation is issued, until an employer re-
28 ceives notice of any citation.

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

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

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

45 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS

1 247.967.

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

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

6 (b) Credit reports;

7 (c) Project appraisals;

8 (d) Market studies and analyses;

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

10 (f) Commitment letters;

11 (g) Project pro forma statements;

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13 (i) Audits;

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

15 (k) Tenant files relating to certification; and

16 (L) Housing assistance payment requests.

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

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

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

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

24 (23) Records or information that would reveal or otherwise identify security measures, or
25 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
26 protect:

27 (a) An individual;

28 (b) Buildings or other property;

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

31 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
32 evaluation under ORS 461.180 (6).

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

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

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

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

1 number.

2 (28) Social Security numbers as provided in ORS 107.840.

3 (29) The electronic mail address of a student who attends a state institution of higher education
4 listed in ORS 352.002 or Oregon Health and Science University.

5 [(30)(a) *If requested by a public safety officer, as defined in ORS 181.610, by a district attorney,*
6 *by a deputy district attorney or by an assistant attorney general designated by the Attorney General,*
7 *the home address and home telephone number of the public safety officer or attorney contained in the*
8 *voter registration records for the public safety officer or attorney.*]

9 [(b) *If requested by a public safety officer, as defined in ORS 181.610, the home address and home*
10 *telephone number of the public safety officer contained in records of the Department of Public Safety*
11 *Standards and Training.*]

12 [(31) *If requested by a public safety officer, as defined in ORS 181.610, by a district attorney, by*
13 *a deputy district attorney or by an assistant attorney general designated by the Attorney General, the*
14 *name of the public safety officer or attorney contained in county real property assessment or taxation*
15 *records. This exemption:]*

16 [(a) *Applies only to the name of the public safety officer or attorney and any other owner of the*
17 *property in connection with a specific property identified by the officer or attorney in a request for ex-*
18 *emption from disclosure;*]

19 [(b) *Applies only to records that may be made immediately available to the public upon request in*
20 *person, by telephone or using the Internet;*]

21 [(c) *Applies until the public safety officer or attorney requests termination of the exemption;*]

22 [(d) *Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for*
23 *governmental purposes; and]*

24 [(e) *May not result in liability for a county if the name of a public safety officer or attorney is*
25 *disclosed after a request for exemption from disclosure is made under this subsection.*]

26 **(30) If requested by a public safety officer, as defined in ORS 181.610:**

27 **(a) The home address and home telephone number of the public safety officer contained**
28 **in the voter registration records for the public safety officer.**

29 **(b) The home address and home telephone number of the public safety officer contained**
30 **in records of the Department of Public Safety Standards and Training.**

31 **(c) The name of the public safety officer contained in county real property assessment**
32 **or taxation records. This exemption:**

33 **(A) Applies only to the name of the public safety officer and any other owner of the**
34 **property in connection with a specific property identified by the officer in a request for ex-**
35 **emption from disclosure;**

36 **(B) Applies only to records that may be made immediately available to the public upon**
37 **request in person, by telephone or using the Internet;**

38 **(C) Applies until the public safety officer requests termination of the exemption;**

39 **(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109**
40 **for governmental purposes; and**

41 **(E) May not result in liability for the county if the name of the public safety officer is**
42 **disclosed after a request for exemption from disclosure is made under this subsection.**

43 **(31) If requested by a district attorney, a deputy district attorney, the Attorney General**
44 **or an assistant attorney general designated by the Attorney General, the home address,**
45 **home or cellular telephone number or personal electronic mail address contained in the re-**

1 **ords of any public body that has received the request. A request for an exemption under**
2 **this subsection does not apply to disclosure of records to a financial institution or a title**
3 **company for business purposes.**

4 (32) Land management plans required for voluntary stewardship agreements entered into under
5 ORS 541.423.

6
