

B-Engrossed

Senate Bill 313

Ordered by the House June 4
Including Senate Amendments dated March 17 and House Amendments
dated June 4

Sponsored by Senator PROZANSKI; Senator MORRISETTE (Pre-session 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.

Creates evidentiary privilege for confidential communication made by minor to parent.

A BILL FOR AN ACT

1
2 Relating to evidence.

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

4 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 40.225 to 40.275.**

5 **SECTION 2. (1) A parent may not be examined in a criminal action in which a child of**
6 **the parent is a defendant, or in any proceeding under ORS chapter 419C in which it is alleged**
7 **that a child of the parent is within the jurisdiction of the court, as to any communication**
8 **made in confidence by the child to the parent when the child is under 18 years of age. For**
9 **the purposes of this section, a communication is confidential when the communication is**
10 **made out of the presence of all persons other than one or more other children who are under**
11 **18 years of age who are living in the same household.**

12 **(2) The privilege created by this section may be claimed by:**

13 **(a) The child;**

14 **(b) The parent to whom the communication is made;**

15 **(c) A guardian or conservator for the child or a guardian or conservator for the parent**
16 **to whom the communication is made; or**

17 **(d) The personal representative of a deceased child or the personal representative of the**
18 **deceased parent to whom the communication is made.**

19 **(3) The privilege created by this section may be waived by:**

20 **(a) Express consent to disclosure by the child or the parent to whom the communication**
21 **is made; or**

22 **(b) Failure of the child, or of the parent to whom the communication is made, to object**
23 **to disclosure.**

24 **(4) The privilege created by this section does not apply to:**

25 **(a) Any proceeding in which the child is charged with committing a crime, or is alleged**
26 **to have engaged in an act of delinquency, against the person or property of the parent to**
27 **whom the communication is made or of another child of either parent;**

28 **(b) Any criminal action charging a person with a homicide, or any proceeding under ORS**

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 chapter 419C in which it is alleged that a child engaged in conduct that would constitute a
2 homicide if committed by an adult; or

3 (c) Any criminal action charging a person with a felony in which the alleged victim was
4 younger than seven years of age at the time the alleged felony occurred, or any proceeding
5 under ORS chapter 419C in which it is alleged that a child engaged in conduct that would
6 constitute a felony if committed by an adult and in which the alleged victim was younger
7 than seven years of age at the time the alleged conduct occurred.

8 (5) As used in this section, "parent" has the meaning given that term in ORS 416.400.

9 **SECTION 3.** Section 2 of this 2009 Act applies to all confidential communications from a
10 child to a parent, whether made before, on or after the effective date of this 2009 Act.

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