

A-Engrossed
Senate Bill 313

Ordered by the Senate March 17
Including Senate Amendments dated March 17

Sponsored by Senator PROZANSKI (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.

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 or the parent's child who is under 18 years of age may not be**
6 **examined as to any communication made in confidence by the child to the child's parent. For**
7 **the purposes of this section, a communication is confidential when the communication is**
8 **made out of the presence of all persons other than one or more other children who are under**
9 **18 years of age who are living in the same household.**

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

11 **(a) The child;**

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

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

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

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

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

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

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

23 **(a) A civil action by one parent against the other parent;**

24 **(b) A civil action by the parent to whom the communication is made against the child,**
25 **or by the child against the parent to whom the communication is made;**

26 **(c) A proceeding to commit either the child or the parent to whom the communication**
27 **is made;**

28 **(d) A protective proceeding under ORS chapter 125;**

29 **(e) A criminal action in which the parent to whom the communication is made is charged**

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 with a crime committed against the person or property of the child, the other parent or
2 another child of either parent;

3 (f) A criminal action in which the child is charged with a crime or act of delinquency
4 committed against the person or property of the parent to whom the communication is made
5 or of another child of either parent;

6 (g) A juvenile dependency proceeding under ORS chapter 419B, including an action for
7 termination of parental rights; or

8 (h) Any civil or criminal action alleging child abuse, child neglect, abandonment or non-
9 support by a parent.

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

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

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