

Senate Bill 313

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 **as introduced**.

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 the child's siblings or grandparents who**
9 **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**
30 **with a crime committed against the person or property of the child, the other parent or**
31 **another child of either parent;**

32 **(f) A criminal action in which the child is charged with a crime or act of delinquency**

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 committed against the person or property of the parent to whom the communication is made
2 or of another child of either parent;

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

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

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

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