

A-Engrossed
Senate Bill 389

Ordered by the Senate March 15
Including Senate Amendments dated March 15

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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.

Establishes [*exclusive means for compelling*] **means by which person may request** production of confidential jury records as evidence in post-conviction relief proceedings.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the disclosure of jury records for the purpose of post-conviction relief proceedings; cre-
3 ating new provisions; amending ORS 10.275; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 138.510 to**
6 **138.680.**

7 **SECTION 2. (1) A person who files a petition for post-conviction relief under ORS 138.510**
8 **to 138.680 and who seeks jury records that are confidential under ORS 10.215 must either**
9 **include in the petition a request for access to the confidential records or file a motion in the**
10 **proceedings seeking access to the confidential records. A motion under this subsection must**
11 **be filed not later than 90 days before the hearing date for the petition, unless the court al-**
12 **lows a later filing for good cause shown. The petition or motion, and any supporting affidavit**
13 **for the petition or motion, must be served on the trial court administrator for the court that**
14 **entered the judgment of conviction and on the State Court Administrator. The request for**
15 **confidential records must:**

16 (a) **Specify the purpose for which the jury records are sought; and**

17 (b) **Identify with particularity the relevant jury records sought to be released, including**
18 **the type and time period of the records.**

19 (2) **The court in the post-conviction relief proceeding may order release of the jury re-**
20 **ords if the court finds that:**

21 (a) **The jury records sought are likely to produce evidence relevant to a claim of a sub-**
22 **stantial denial of the petitioner's rights under the Constitution of the United States, or under**
23 **the Constitution of the State of Oregon, or both; and**

24 (b) **Production of the jury records is not unduly burdensome.**

25 (3) **An order under subsection (2) of this section may include, but need not be limited to:**

26 (a) **A requirement that the petitioner provide advance payment to the trial court ad-**

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 **ministrator for the court that entered the judgment of conviction and, if applicable, the State**
2 **Court Administrator for the reasonable costs of providing copies of the jury records; and**

3 **(b) Restrictions on further disclosure of the jury records including, but not limited to:**

4 **(A) A requirement that the petitioner return all originals and copies to the court at the**
5 **conclusion of the proceeding;**

6 **(B) A requirement that the jury records may be used only for the purpose of supporting**
7 **the petition for post-conviction relief;**

8 **(C) A prohibition against distributing the jury records to a person who is not an agent**
9 **or representative of the petitioner; and**

10 **(D) A prohibition against contacting or attempting to contact the persons whose names**
11 **appear on the jury records without specific authorization of the court.**

12 **(4) The trial court administrator for the court that entered the judgment of conviction**
13 **or the State Court Administrator may intervene at any time as a matter of right as to any**
14 **issues relating to the release of jury records under this section.**

15 **(5) The procedure established by this section is the exclusive means for compelling pro-**
16 **duction of confidential jury records as evidence in post-conviction relief proceedings. The**
17 **procedure established by ORS 10.275 is the exclusive means for compelling production of**
18 **confidential jury records as evidence relevant to a challenge to a jury panel under ORS**
19 **136.005 or ORCP 57A.**

20 **SECTION 3. Section 2 of this 2011 Act applies only to proceedings for post-conviction**
21 **relief commenced by the filing of a petition on or after the effective date of this 2011 Act.**

22 **SECTION 4. ORS 10.275 is amended to read:**

23 10.275. (1) A person challenging a jury panel under ORS 136.005 or ORCP 57 A who seeks jury
24 records that are confidential under ORS 10.215 must include a request for access to the confidential
25 records in the motion challenging the jury panel. The motion and supporting affidavit must be served
26 on the trial court administrator and the State Court Administrator. The request must:

27 (a) Specify the purpose for which the jury records are sought; and

28 (b) Identify with particularity the relevant jury records sought to be released including the type
29 and time period of the records.

30 (2) The court may order release of the jury records if the court finds that:

31 (a) The jury records sought are likely to produce evidence relevant to the motion; and

32 (b) Production of the jury records is not unduly burdensome.

33 (3) An order under subsection (2) of this section may include, but need not be limited to:

34 (a) A requirement that the moving party provide advance payment to the trial court adminis-
35 trator and, if applicable, the State Court Administrator for the reasonable costs of providing copies
36 of the jury records; and

37 (b) Restrictions on further disclosure of the jury records including, but not limited to:

38 (A) A requirement that the moving party return all originals and copies to the court at the
39 conclusion of the proceeding;

40 (B) A requirement that the jury records may be used only for the purpose of supporting the jury
41 panel challenge made in the motion;

42 (C) A prohibition against distributing the jury records to a person who is not an agent or rep-
43 resentative of the moving party; and

44 (D) A prohibition against contacting or attempting to contact the persons whose names appear
45 on the jury records without specific authorization of the court.

1 (4) The trial court administrator or the State Court Administrator may intervene at any time
2 as a matter of right as to any issues relating to the release of jury records under this section.

3 (5) The procedure established by this section is the exclusive means for compelling production
4 of confidential jury records as evidence relevant to a challenge to a jury panel under ORS 136.005
5 or ORCP 57 A. **The procedure established by section 2 of this 2011 Act is the exclusive means**
6 **for compelling production of confidential jury records as evidence in post-conviction relief**
7 **proceedings under ORS 138.510 to 138.680.**

8 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
9 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
10 **on its passage.**

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