

Enrolled
Senate Bill 389

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Judicial Department)

CHAPTER

AN ACT

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

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

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

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

- (a) Specify the purpose for which the jury records are sought; and
 - (b) Identify with particularity the relevant jury records sought to be released, including the type and time period of the records.
- (2) The court in the post-conviction relief proceeding may order release of the jury records if the court finds that:
- (a) The jury records sought are likely to produce evidence relevant to a claim of a substantial denial of the petitioner's rights under the Constitution of the United States, or under the Constitution of the State of Oregon, or both; and
 - (b) Production of the jury records is not unduly burdensome.
- (3) An order under subsection (2) of this section may include, but need not be limited to:
- (a) A requirement that the petitioner provide advance payment to the trial court administrator for the court that entered the judgment of conviction and, if applicable, the State Court Administrator for the reasonable costs of providing copies of the jury records; and
 - (b) Restrictions on further disclosure of the jury records including, but not limited to:
 - (A) A requirement that the petitioner return all originals and copies to the court at the conclusion of the proceeding;
 - (B) A requirement that the jury records may be used only for the purpose of supporting the petition for post-conviction relief;

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

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

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

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

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

SECTION 4. ORS 10.275 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed by Senate March 17, 2011

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 24, 2011

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State