

Senate Bill 389

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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 **as introduced**.

Establishes exclusive means for compelling 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 include**
9 **in the petition a request for access to the confidential records. The petition and any sup-**
10 **porting affidavit must be served on the trial court administrator for the court that entered**
11 **the judgment of conviction and on the State Court Administrator. The request must:**

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

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

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

17 (a) **The jury records sought are likely to produce evidence of a substantial denial of the**
18 **petitioner's rights under the Constitution of the United States, or under the Constitution of**
19 **the State of Oregon, or both; and**

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

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

22 (a) **A requirement that the petitioner provide advance payment to the trial court ad-**
23 **ministrator for the court that entered the judgment of conviction and, if applicable, the State**
24 **Court Administrator for the reasonable costs of providing copies of the jury records; and**

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

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

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

30 (C) **A prohibition against distributing the jury records to a person who is not an agent**

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 or representative of the petitioner; and

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

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

7 (5) The procedure established by this section is the exclusive means for compelling pro-
8 duction of confidential jury records as evidence in post-conviction relief proceedings. The
9 procedure established by ORS 10.275 is the exclusive means for compelling production of
10 confidential jury records as evidence relevant to a challenge to a jury panel under ORS
11 136.005 or ORCP 57A.

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

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

15 10.275. (1) A person challenging a jury panel under ORS 136.005 or ORCP 57 A who seeks jury
16 records that are confidential under ORS 10.215 must include a request for access to the confidential
17 records in the motion challenging the jury panel. The motion and supporting affidavit must be served
18 on the trial court administrator and the State Court Administrator. The request must:

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

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

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

23 (a) The jury records sought are likely to produce evidence relevant to the motion; 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 moving party provide advance payment to the trial court adminis-
27 trator and, if applicable, the State Court Administrator for the reasonable costs of providing copies
28 of the jury records; and

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

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

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

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

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

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

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

45 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
2 **on its passage.**

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