

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO SENATE BILL 390

By COMMITTEE ON JUDICIARY

May 20

1 On page 5 of the printed bill, after line 19, insert:

2 **“SECTION 6a. If Senate Bill 68 becomes law, section 2 of this 2011 Act (amending ORS**
3 **426.160) is repealed and ORS 426.160, as amended by section 1 of this 2011 Act, is amended**
4 **to read:**

5 “426.160. (1) The court having jurisdiction over any proceeding conducted pursuant to ORS
6 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.385 and
7 426.395 may not disclose any part of the record of the proceeding to any person except:

8 **“(a) The court shall, pursuant to rules adopted by the Department of State Police,**
9 **transmit the minimum information necessary, as defined in ORS 181.740, to the Department**
10 **of State Police for persons described in ORS 181.740 (1)(a) or (b) to enable the department**
11 **to access and maintain the information and transmit the information to the federal govern-**
12 **ment as required under federal law;**

13 “[*a*] (b) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;

14 “[*b*] (c) On request of the person subject to the proceeding;

15 “[*c*] (d) On request of the person’s legal representative or the attorney for the person or the
16 state; or

17 “[*d*] (e) Pursuant to court order.

18 “(2) In any proceeding described in subsection (1) of this section that is before the Supreme
19 Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the
20 appellate court record and to the trial court record while it is in the appellate court’s custody. The
21 appellate court may disclose information from the trial or appellate court record in a decision, as
22 defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for
23 protecting against public disclosure the identity of the allegedly mentally ill person.

24 **“SECTION 6b. If Senate Bill 68 becomes law, section 4 of this 2011 Act (amending ORS**
25 **427.293) is repealed and ORS 427.293, as amended by section 3 of this 2011 Act, is amended**
26 **to read:**

27 “427.293. (1) In any proceeding conducted under ORS 427.235 to 427.290, the court may not dis-
28 close any part of the record, including any report submitted to the court under ORS 427.270 to any
29 person except:

30 **“(a) The court shall, pursuant to rules adopted by the Department of State Police,**
31 **transmit the minimum information necessary, as defined in ORS 181.740, to the Department**
32 **of State Police for persons described in ORS 181.740 (1)(c) to enable the department to**
33 **maintain the information and transmit the information to the federal government as re-**
34 **quired under federal law;**

35 “[*a*] (b) On request of the person subject to the proceeding;

1 “[(b)] (c) On request of the person’s legal representative or the attorney for the person or the
2 state; or

3 “[(c)] (d) Pursuant to court order.

4 “(2) In any proceeding described in subsection (1) of this section that is before the Supreme
5 Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the
6 appellate court record and to the trial court record while it is in the appellate court’s custody. The
7 appellate court may disclose information from the trial or appellate court record in a decision, as
8 defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for
9 protecting against public disclosure the identity of the person who is alleged to have mental retar-
10 dation.

11 “**SECTION 6c.** If Senate Bill 68 becomes law, section 6 of this 2011 Act is amended to read:

12 “**Sec. 6.** (1) When the Chief Justice of the Supreme Court determines that the Judicial Depart-
13 ment has received a sufficient legislative appropriation or federal funding to carry out the provisions
14 of the amendments to ORS 426.160 and 427.293 by sections [2 and 4] **6a and 6b** of this 2011 Act, the
15 Chief Justice shall issue an order so indicating. The Chief Justice shall notify Legislative Counsel
16 when the order is issued.

17 “(2)(a) Except as provided in paragraph (b) of this subsection, the amendments to ORS 426.160
18 and 427.293 by sections [2 and 4] **6a and 6b** of this 2011 Act become operative on the date the Chief
19 Justice issues the order described in subsection (1) of this section.

20 “(b) If the Chief Justice issues the order described in subsection (1) of this section before Jan-
21 uary 2, 2012, the amendments to ORS 426.160 and 427.293 by sections [2 and 4] **6a and 6b** of this
22 2011 Act become operative on the later of:

23 “(A) The date the Psychiatric Security Review Board adopts the rule described in section 13,
24 chapter 826, Oregon Laws 2009; or

25 “(B) January 2, 2012.”.