

Senate Bill 41

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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 deadlines by which public bodies must respond to public records requests. Provides exceptions. Delays application of deadlines to local governments until July 1, 2013. Provides exceptions.

Limits amount of fees public bodies may charge for responding to public records requests. Provides exceptions.

Establishes jurisdiction of Attorney General to hear petitions for review of public records in custody of elected officials by persons denied right to inspect records.

Requires Attorney General to develop training materials on public records.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public records; creating new provisions; amending ORS 21.020, 147.421, 166.274, 181.560,
3 192.410, 192.440, 192.450, 192.460, 192.465, 192.490, 192.650, 287A.350, 305.493, 646.473, 657.732,
4 657.734 and 802.183; repealing ORS 192.480; and declaring an emergency.

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

6 **SECTION 1.** ORS 192.410 is amended to read:

7 192.410. As used in ORS 192.410 to 192.505:

8 (1) "Custodian" means:

9 (a) The person described in ORS 7.110 for purposes of court records; or

10 (b) A public body mandated, directly or indirectly, to create, maintain, care for or control a
11 public record. "Custodian" does not include a public body that has custody of a public record as
12 an agent of another public body that is the custodian unless the public record is not otherwise
13 available.

14 **(2) "Local government" means every public body that is not a state agency.**

15 [(2)] **(3)** "Person" includes any natural person, corporation, partnership, firm, association or
16 member or committee of the Legislative Assembly.

17 [(3)] **(4)** "Public body" includes every state officer, agency, department, division, bureau, board
18 and commission; every county and city governing body, school district, special district, municipal
19 corporation, and any board, department, commission, council, or agency thereof; and any other
20 public agency of this state.

21 [(4)(a)] **(5)(a)** "Public record" includes any writing that contains information relating to the
22 conduct of the public's business, including but not limited to court records, mortgages, and deed
23 records, prepared, owned, used or retained by a public body regardless of physical form or charac-
24 teristics.

25 (b) "Public record" does not include any writing that does not relate to the conduct of the
26 public's business and that is contained on a privately owned computer.

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 [(5)] (6) “State agency” means any state officer, **agency**, department, **division**, **bureau**, board,
 2 commission or court created by the Constitution or statutes of this state but does not include the
 3 Legislative Assembly or its members, committees, officers or employees insofar as they are exempt
 4 under section 9, Article IV of the Oregon Constitution.

5 [(6)] (7) “Writing” means handwriting, typewriting, printing, photographing and every means of
 6 recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all pa-
 7 pers, maps, files, facsimiles or electronic recordings.

8 **SECTION 2.** ORS 192.440 is amended to read:

9 192.440. (1) The custodian of any public record that [*a person has a right to inspect shall give the*
 10 *person*] **is not subject to exemption from disclosure under ORS 192.410 to 192.505 shall**
 11 **provide**, upon request:

12 [(a) *A copy of the public record if the public record is of a nature permitting copying; or*]

13 [(b)] (a) A reasonable opportunity to inspect or copy the public record[.]; **or**

14 **(b) A copy of the public record, in the physical or electronic format requested, if the copy**
 15 **can reasonably be created using the public body’s existing resources. If an electronic copy**
 16 **is requested in a format that cannot reasonably be created using the existing resources of**
 17 **the public body, the custodian shall make the public record available in the form in which**
 18 **the custodian maintains the public record.**

19 [(2) *If a person makes a written request to inspect a public record or to receive a copy of a public*
 20 *record, the public body receiving the request shall respond as soon as practicable and without unrea-*
 21 *sonable delay. The public body may request additional information or clarification from the requester*
 22 *for the purpose of expediting the public body’s response to the request. The response of the public body*
 23 *must acknowledge receipt of the request and must include one of the following:]*

24 [(a) *A statement that the public body does not possess, or is not the custodian of, the public*
 25 *record.*]

26 [(b) *Copies of all requested public records for which the public body does not claim an exemption*
 27 *from disclosure under ORS 192.410 to 192.505.*]

28 [(c) *A statement that the public body is the custodian of at least some of the requested public re-*
 29 *ords, an estimate of the time the public body requires before the public records may be inspected or*
 30 *copies of the records will be provided and an estimate of the fees that the requester must pay under*
 31 *subsection (4) of this section as a condition of receiving the public records.*]

32 [(d) *A statement that the public body is the custodian of at least some of the requested public re-*
 33 *ords and that an estimate of the time and fees for disclosure of the public records will be provided*
 34 *by the public body within a reasonable time.*]

35 [(e) *A statement that the public body is uncertain whether the public body possesses the public re-*
 36 *cord and that the public body will search for the record and make an appropriate response as soon*
 37 *as practicable.*]

38 [(f) *A statement that state or federal law prohibits the public body from acknowledging whether the*
 39 *record exists or that acknowledging whether the record exists would result in the loss of federal bene-*
 40 *fits or other sanction. A statement under this paragraph must include a citation to the state or federal*
 41 *law relied upon by the public body.*]

42 [(3) *If the public record is maintained in a machine readable or electronic form, the custodian shall*
 43 *provide a copy of the public record in the form requested, if available. If the public record is not*
 44 *available in the form requested, the custodian shall make the public record available in the form in*
 45 *which the custodian maintains the public record.*]

1 [(4)(a) *The public body may establish fees reasonably calculated to reimburse the public body for*
 2 *the public body's actual cost of making public records available, including costs for summarizing,*
 3 *compiling or tailoring the public records, either in organization or media, to meet the person's*
 4 *request.*]

5 [(b) *The public body may include in a fee established under paragraph (a) of this subsection the*
 6 *cost of time spent by an attorney for the public body in reviewing the public records, redacting material*
 7 *from the public records or segregating the public records into exempt and nonexempt records. The*
 8 *public body may not include in a fee established under paragraph (a) of this subsection the cost of time*
 9 *spent by an attorney for the public body in determining the application of the provisions of ORS*
 10 *192.410 to 192.505.*]

11 [(c) *The public body may not establish a fee greater than \$25 under this section unless the public*
 12 *body first provides the requestor with a written notification of the estimated amount of the fee and the*
 13 *requestor confirms that the requestor wants the public body to proceed with making the public record*
 14 *available.*]

15 [(d) *Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those*
 16 *filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for furnishing*
 17 *copies, summaries or compilations of the public records are those established by the Secretary of State*
 18 *by rule, under ORS chapter 79 or ORS 80.100 to 80.130.*]

19 [(5) *The custodian of any public record may furnish copies without charge or at a substantially*
 20 *reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest*
 21 *because making the record available primarily benefits the general public.*]

22 [(6) *A person who believes that there has been an unreasonable denial of a fee waiver or fee re-*
 23 *duction may petition the Attorney General or the district attorney in the same manner as a person pe-*
 24 *titions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney*
 25 *General, the district attorney and the court have the same authority in instances when a fee waiver or*
 26 *reduction is denied as it has when inspection of a public record is denied.*]

27 [(7) *A public body shall make available to the public a written procedure for making public record*
 28 *requests that includes:*]

29 [(a) *The name of one or more persons to whom public record requests may be sent, with addresses;*
 30 *and*]

31 [(b) *The amounts of and the manner of calculating fees that the public body charges for responding*
 32 *to requests for public records.*]

33 [(8)] (2) This section does not apply to signatures of individuals submitted under ORS chapter
 34 247 for purposes of registering to vote as provided in ORS 247.973.

35 **SECTION 3. Upon receipt of a written request to inspect or receive copies of records, a**
 36 **state agency shall:**

37 (1) **As soon as practicable, and within 10 working days of receipt of the request, provide**
 38 **an estimate of any fee over \$25 that the state agency will charge in connection with the re-**
 39 **quest. The estimate shall be calculated in a manner consistent with the requirements of**
 40 **section 20 of this 2011 Act, and shall be based on the information available to the state**
 41 **agency at the time of the estimate.**

42 (2) **Except as provided by subsection (3) of this section or by sections 6 or 9 of this 2011**
 43 **Act, provide the requester with one of the following responses within 10 working days of**
 44 **receiving the request:**

45 (a) **A response that complies with section 14 of this 2011 Act; or**

1 (b) Notice that the state agency is extending the deadline for providing a response under
 2 paragraph (a) of this subsection for a period not to exceed an additional 10 working days,
 3 followed by a response that complies with section 14 of this 2011 Act within the additional
 4 time period stated in the notice.

5 (3)(a) Notwithstanding subsection (2) of this section, if a state agency determines that it
 6 is unable to comply with the deadlines imposed by subsection (2) of this section, the state
 7 agency may ask the Attorney General to authorize additional time to provide a response that
 8 complies with section 14 of this 2011 Act. A state agency must make this request at least two
 9 working days before the expiration of the applicable deadline established by subsection (2)
 10 of this section, including any extension noticed by the state agency.

11 (b) The Attorney General shall reply to the request within two working days, one of
 12 which shall not be counted against the deadline established by subsection (2) of this section.
 13 The Attorney General shall grant a request for additional time under this subsection only if
 14 the Attorney General is satisfied that responding to the request within the time otherwise
 15 permitted would place a significant burden on the state agency. If the Attorney General
 16 grants the request, the Attorney General shall notify the state agency and the requester in
 17 writing, and shall allow only such additional time as the Attorney General determines is
 18 reasonably necessary to respond to the request.

19 (c) After a request for additional time is granted, the state agency shall thereafter pro-
 20 vide a response that complies with section 14 of this 2011 Act within the time allowed by the
 21 Attorney General.

22 **SECTION 4.** Section 3 of this 2011 Act is amended to read:

23 **Sec. 3.** Upon receipt of a written request to inspect or receive copies of records, a [*state*
 24 *agency*] **public body** shall:

25 (1) As soon as practicable, and within 10 working days of receipt of the request, provide an es-
 26 timate of any fee over \$25 that the [*state agency*] **public body** will charge in connection with the
 27 request. The estimate shall be calculated in a manner consistent with the requirements of section
 28 20 of this 2011 Act, and shall be based on the information available to the [*state agency*] **public body**
 29 at the time of the estimate.

30 (2) Except as provided by subsection (3) of this section or by sections 6 or 9 of this 2011 Act,
 31 provide the requester with one of the following responses within 10 working days of receiving the
 32 request:

33 (a) A response that complies with section 14 of this 2011 Act; or

34 (b) Notice that the [*state agency*] **public body** is extending the deadline for providing a response
 35 under paragraph (a) of this subsection for a period not to exceed an additional 10 working days,
 36 followed by a response that complies with section 14 of this 2011 Act within the additional time
 37 period stated in the notice.

38 (3)(a) Notwithstanding subsection (2) of this section, if a state agency determines that it is un-
 39 able to comply with the deadlines imposed by subsection (2) of this section, the state agency may
 40 ask the Attorney General to authorize additional time to provide a response that complies with
 41 section 14 of this 2011 Act. A state agency must make this request at least two working days before
 42 the expiration of the applicable deadline established by subsection (2) of this section, including any
 43 extension noticed by the state agency.

44 (b) The Attorney General shall reply to the request within two working days, one of which shall
 45 not be counted against the deadline established by subsection (2) of this section. The Attorney

1 General shall grant a request for additional time under this subsection only if the Attorney General
2 is satisfied that responding to the request within the time otherwise permitted would place a sig-
3 nificant burden on the state agency. If the Attorney General grants the request, the Attorney Gen-
4 eral shall notify the state agency and the requester in writing, and shall allow only such additional
5 time as the Attorney General determines is reasonably necessary to respond to the request.

6 (c) After a request for additional time is granted, the state agency shall thereafter provide a
7 response that complies with section 14 of this 2011 Act within the time allowed by the Attorney
8 General.

9 **(4)(a) Notwithstanding subsection (2) of this section, if a local government determines**
10 **that it is unable to comply with the deadlines imposed by subsection (2) of this section, the**
11 **local government may ask the district attorney in the county where the local government**
12 **is located to authorize additional time to provide a response that complies with section 14**
13 **of this 2011 Act. If the local government is located in more than one county, the local gov-**
14 **ernment may ask the district attorney in the county where the administrative offices of the**
15 **local government are located to authorize additional time to provide a response that complies**
16 **with section 14 of this 2011 Act.**

17 (b) A request under paragraph (a) of this subsection shall be considered by the district
18 attorney in the same manner as the Attorney General is required to consider a request from
19 a state agency under subsection (3) of this section, and shall have the same consequences
20 as described in that subsection.

21 **SECTION 5.** The amendments to section 3 of this 2011 Act by section 4 of this 2011 Act
22 become operative July 1, 2013.

23 **SECTION 6.** (1) If a public records request is made for purposes related to actual or likely
24 litigation or administrative proceedings, and is made by or on behalf of a person who is or
25 expects to be a participant, then notwithstanding the deadlines established by section 3 (2)
26 of this 2011 Act, a state agency:

27 (a) In the case of actual or likely litigation:

28 (A) In which the request is made at least 30 working days prior to the close of discovery,
29 shall provide a response that complies with section 14 of this 2011 Act on a schedule con-
30 sistent with the schedule for discovery established in the litigation; or

31 (B) If the request is made less than 30 working days before the close of discovery, may
32 elect to not provide a response. If the state agency elects to not provide a response, the re-
33 quester may resubmit the request following the conclusion of litigation. If the request is so
34 resubmitted, the state agency shall provide a response that complies with section 14 of this
35 2011 Act within an amount of time that is reasonable under the circumstances.

36 (b) In the case of actual or likely administrative proceedings:

37 (A) Shall provide a response that complies with section 14 of this 2011 Act on a schedule
38 reasonably calculated to provide the requester with access to the documents at least five
39 working days prior to any deadline for submitting materials that will bear on a state agency's
40 consideration of the substance of the matter; or

41 (B) May elect to not provide a response, if the request is received more than five working
42 days after notice of a deadline described in subparagraph (A) of this subsection and less than
43 twenty working days prior to the deadline. If the state agency elects to not provide a re-
44 sponse, a requester may resubmit the request following the conclusion of the administrative
45 proceedings. If the request is resubmitted, the state agency shall provide a response that

1 **complies with section 14 of this 2011 Act within an amount of time that is reasonable under**
 2 **the circumstances.**

3 **(2) Any person making a request that triggers a state agency's authority to proceed un-**
 4 **der this section shall inform the state agency of the purpose of the request.**

5 **(3) A state agency electing to proceed under this section must inform the requester of**
 6 **the state agency's election within 10 working days of receiving the request or within 10**
 7 **working days of receiving notice of the purpose of the request, whichever is later. A state**
 8 **agency that fails to comply with this requirement is subject to the deadlines of section 3 (2)**
 9 **of this 2011 Act.**

10 **SECTION 7.** Section 6 of this 2011 Act is amended to read:

11 **Sec. 6.** (1) If a public records request is made for purposes related to actual or likely litigation
 12 or administrative proceedings, and is made by or on behalf of a person who is or expects to be a
 13 participant, then notwithstanding the deadlines established by section 3 (2) of this 2011 Act, a [*state*
 14 *agency*] **public body**:

15 (a) In the case of actual or likely litigation:

16 (A) In which the request is made at least 30 working days prior to the close of discovery, shall
 17 provide a response that complies with section 14 of this 2011 Act on a schedule consistent with the
 18 schedule for discovery established in the litigation; or

19 (B) If the request is made less than 30 working days before the close of discovery, may elect to
 20 not provide a response. If the [*state agency*] **public body** elects to not provide a response, the re-
 21 quester may resubmit the request following the conclusion of litigation. If the request is so resub-
 22 mitted, the [*state agency*] **public body** shall provide a response that complies with section 14 of this
 23 2011 Act within an amount of time that is reasonable under the circumstances.

24 (b) In the case of actual or likely administrative proceedings:

25 (A) Shall provide a response that complies with section 14 of this 2011 Act on a schedule rea-
 26 sonably calculated to provide the requester with access to the documents at least five working days
 27 prior to any deadline for submitting materials that will bear on [*a state agency's*] **a public body's**
 28 consideration of the substance of the matter; or

29 (B) May elect to not provide a response, if the request is received more than five working days
 30 after notice of a deadline described in subparagraph (A) of this subsection and less than twenty
 31 working days prior to the deadline. If the [*state agency*] **public body** elects to not provide a response,
 32 a requester may resubmit the request following the conclusion of the administrative proceedings. If
 33 the request is resubmitted, the [*state agency*] **public body** shall provide a response that complies
 34 with section 14 of this 2011 Act within an amount of time that is reasonable under the circum-
 35 stances.

36 (2) Any person making a request that triggers a [*state agency's*] **public body's** authority to pro-
 37 ceed under this section shall inform the [*state agency*] **public body** of the purpose of the request.

38 (3) A [*state agency*] **public body** electing to proceed under this section must inform the requester
 39 of the [*state agency's*] **public body's** election within 10 working days of receiving the request or
 40 within 10 working days of receiving notice of the purpose of the request, whichever is later. A [*state*
 41 *agency*] **public body** that fails to comply with this requirement is subject to the deadlines of section
 42 3 (2) of this 2011 Act.

43 **SECTION 8.** The amendments to section 6 of this 2011 Act by section 7 of this 2011 Act
 44 **become operative July 1, 2013.**

45 **SECTION 9.** (1) If a public records request is made for a commercial or business purpose

1 other than disseminating the information to the general public, then notwithstanding the
 2 deadlines established by section 3 (2) of this 2011 Act, a state agency may elect to provide a
 3 response that complies with section 14 of this 2011 Act within an amount of time that is
 4 reasonable under the circumstances.

5 (2) Any person making a request that triggers the authority of a state agency to proceed
 6 under this section shall inform the state agency of the purpose of the request.

7 (3) A state agency electing to proceed under this section must inform the requester of
 8 the state agency's election within 10 working days of receiving the request or within 10
 9 working days of receiving notice of the purpose of the request, whichever is later. A state
 10 agency that fails to comply with this requirement is subject to the deadlines of section 3 (2)
 11 of this 2011 Act.

12 **SECTION 10.** Section 9 of this 2011 Act is amended to read:

13 **Sec. 9.** (1) If a public records request is made for a commercial or business purpose other than
 14 disseminating the information to the general public, then notwithstanding the deadlines established
 15 by section 3 (2) of this 2011 Act, a [state agency] **public body** may elect to provide a response that
 16 complies with section 14 of this 2011 Act within an amount of time that is reasonable under the
 17 circumstances.

18 (2) Any person making a request that triggers the authority of a [state agency] **public body** to
 19 proceed under this section shall inform the [state agency] **public body** of the purpose of the request.

20 (3) A [state agency] **public body** electing to proceed under this section must inform the requester
 21 of the [state agency's] **public body's** election within 10 working days of receiving the request or
 22 within 10 working days of receiving notice of the purpose of the request, whichever is later. A [state
 23 agency] **public body** that fails to comply with this requirement is subject to the deadlines of section
 24 3 (2) of this 2011 Act.

25 **SECTION 11.** The amendments to section 9 of this 2011 Act by section 10 of this 2011 Act
 26 become operative July 1, 2013.

27 **SECTION 12.** (1) For purposes of sections 3, 6 and 9 of this 2011 Act, a request is con-
 28 sidered received on the first working day following the date when it is received at the address
 29 designated by the public body under the policy required by section 26 of this 2011 Act.

30 (2) In calculating compliance with deadlines established by section 3, 6 or 9 of this 2011
 31 Act, the following periods of time may not be counted:

32 (a) The time from a public body's request for clarification, beginning with and including
 33 the day on which the request for clarification is delivered, through the working day after
 34 which clarification is provided; and

35 (b) The time from delivery of a public body's estimate of a fee in excess of \$25, beginning
 36 with and including the day on which the estimate is delivered, through the first working day
 37 following the date on which:

38 (A) The fee is fully waived, either by the public body voluntarily or through a final, un-
 39 appealed order requiring the public body to waive the fee;

40 (B) The requester agrees to pay the fee; or

41 (C) If the fee exceeds \$150 and the public body requires prepayment of the fee, the public
 42 body receives prepayment of the fee.

43 **SECTION 13.** Within two working days of receiving a written request to inspect or re-
 44 ceive copies of public records, a public body shall provide the requester with a written ac-
 45 knowledgment of receipt of the request. An acknowledgment under this section must include

1 each of the following that apply under the circumstances, to the extent known by the person
 2 sending the acknowledgment at the time the acknowledgment is sent:

3 (1) A statement that the public body does not possess, or is not the custodian of, a re-
 4 quested record.

5 (2) A statement that the public body is the custodian of a requested record.

6 (3) A statement that the public body is uncertain whether the public body is the custo-
 7 dian of a requested record.

8 (4) A statement that state or federal law prohibits the public body from acknowledging
 9 whether the record exists or that acknowledging whether the record exists would result in
 10 the loss of federal benefits or other sanction. A statement under this subsection must in-
 11 clude a citation to the state or federal law relied upon by the public body.

12 **SECTION 14.** A public body has responded to a request to inspect or receive a copy of a
 13 public record when it has provided the requester with each of the following that applies:

14 (1) A copy of any requested public record, or information from within a public record
 15 segregated in accordance with ORS 192.505, that the public body does not assert is exempt
 16 from disclosure. If inspection has been requested, then in lieu of a copy, the public body shall
 17 provide a statement that the public record is available for inspection beginning no later than
 18 the next working day. The location for inspection shall be either:

19 (a) The location where the public body generally keeps the record or a copy of the record;
 20 or

21 (b) At the option of the public body, a location that is more convenient to the requester.

22 (2) If the public body withholds any requested information or records on the basis of an
 23 exemption from disclosure under ORS 192.410 to 192.505, a statement indicating that fact and
 24 identifying any exemptions relied upon by the public body. A statement under this subsection
 25 must include a general description of the nature and amount of the records or information
 26 withheld, but need not provide a precise count of documents or pages or a detailed de-
 27 scription of the material withheld.

28 (3) If the public body asserts that state or federal law prohibits the public body from
 29 acknowledging whether a requested record exists, or that acknowledging whether a re-
 30 quested record exists would result in the loss of federal benefits or other sanction, a state-
 31 ment of that fact that includes a citation to the state or federal law relied upon by the public
 32 body.

33 (4) A statement that a requested record does not exist or that the public body is not the
 34 custodian of a requested record.

35 **SECTION 15.** The failure of a state agency to provide a response that complies with
 36 section 14 of this 2011 Act within the time period prescribed by section 3, 6 or 9 of this 2011
 37 Act, as applicable to the particular request, shall be deemed a denial of the request and the
 38 requester may petition for review of the denial as provided in ORS 192.450.

39 **SECTION 16.** Section 15 of this 2011 Act is amended to read:

40 **Sec. 15.** The failure of a [state agency] public body to provide a response that complies with
 41 section 14 of this 2011 Act within the time period prescribed by section 3, 6 or 9 of this 2011 Act,
 42 as applicable to the particular request, shall be deemed a denial of the request and the requester
 43 may petition for review of the denial as provided in ORS 192.450 or 192.460.

44 **SECTION 17.** The amendments to section 15 of this 2011 Act by section 16 of this 2011
 45 Act become operative July 1, 2013.

1 **SECTION 18.** A local government that receives a request to inspect or receive a copy of
 2 a public record shall provide a response that complies with section 14 of this 2011 Act within
 3 a reasonable time.

4 **SECTION 19.** Section 18 of this 2011 Act is repealed on July 1, 2013.

5 **SECTION 20.** (1) Subject to subsection (2) of this section, a state agency that receives a
 6 request to inspect or receive a copy of a public record may establish fees reasonably calcu-
 7 lated to reimburse the state agency for the actual cost of staff time necessarily incurred in
 8 responding to the request and the actual costs of paper, electronic storage media or other
 9 materials requested by and provided to the requester.

10 (2) A state agency may not charge for staff time under subsection (1) of this section at
 11 a rate that would exceed three times the minimum wage in effect under ORS 653.025 at the
 12 time the request is made.

13 (3) A state agency may include in fees charged under this section the cost of time spent
 14 by an attorney for the state agency in reviewing the public records, redacting material from
 15 the public records or segregating the public records into exempt and nonexempt records. A
 16 state agency may not include in a fee established under this section the cost of time spent
 17 by an attorney for the state agency in determining the application of ORS 192.410 to 192.505.
 18 Fees under this subsection are not subject to limitation under subsection (2) of this section.

19 (4) Notwithstanding subsections (1) to (3) of this section, a state agency may charge fees
 20 reasonably calculated to recover the actual costs of responding to a public records request
 21 if the request is one described in section 6 or 9 of this 2011 Act.

22 (5) Notwithstanding any other provision of ORS 192.410 to 192.505, a state agency need
 23 not respond to a public records request made by a requester with an unpaid balance resulting
 24 from previous public records requests except to inform the requester that the state agency
 25 will not respond due to the unpaid balance and that the requester may resubmit the request
 26 once the outstanding balance is paid.

27 (6) Notwithstanding subsections (1) to (5) of this section, when the public records are
 28 those filed with the Secretary of State under ORS 80.100 to 80.130 or ORS chapter 79, the fees
 29 for furnishing copies, summaries or compilations of the public records are those established
 30 by the Secretary of State by rule under ORS 80.100 to 80.130 or ORS chapter 79.

31 **SECTION 21.** Section 20 of this 2011 Act is amended to read:

32 **Sec. 20.** (1) Subject to subsection (2) of this section, a [*state agency*] **public body** that receives
 33 a request to inspect or receive a copy of a public record may establish fees reasonably calculated
 34 to reimburse the [*state agency*] **public body** for the actual cost of staff time necessarily incurred in
 35 responding to the request and the actual costs of paper, electronic storage media or other materials
 36 requested by and provided to the requester.

37 (2) A [*state agency*] **public body** may not charge for staff time under subsection (1) of this section
 38 at a rate that would exceed three times the minimum wage in effect under ORS 653.025 at the time
 39 the request is made.

40 (3) A [*state agency*] **public body** may include in fees charged under this section the cost of time
 41 spent by an attorney for the [*state agency*] **public body** in reviewing the public records, redacting
 42 material from the public records or segregating the public records into exempt and nonexempt re-
 43 cords. A [*state agency*] **public body** may not include in a fee established under this section the cost
 44 of time spent by an attorney for the [*state agency*] **public body** in determining the application of ORS
 45 192.410 to 192.505. Fees under this subsection are not subject to the limitation of subsection (2) of

1 this section.

2 (4) Notwithstanding subsections (1) to (3) of this section, a [state agency] **public body** may
3 charge fees reasonably calculated to recover the actual costs of responding to a public records re-
4 quest if the request is one described in section 6 or 9 of this 2011 Act.

5 (5) Notwithstanding any other provision of ORS 192.410 to 192.505, a [state agency] **public body**
6 need not respond to a public records request made by a requester with an unpaid balance resulting
7 from previous public records requests except to inform the requester that the [state agency] **public**
8 **body** will not respond due to the unpaid balance and that the requester may resubmit the request
9 once the outstanding balance is paid.

10 (6) Notwithstanding subsections (1) to (5) of this section, when the public records are those filed
11 with the Secretary of State under ORS 80.100 to 80.130 or ORS chapter 79, the fees for furnishing
12 copies, summaries or compilations of the public records are those established by the Secretary of
13 State by rule under ORS 80.100 to 80.130 or ORS chapter 79.

14 **SECTION 22.** The amendments to section 20 of this 2011 Act by section 21 of this 2011
15 Act become operative July 1, 2013.

16 **SECTION 23.** (1) A local government that receives a request to inspect or receive a copy
17 of a public record may establish fees reasonably calculated to reimburse the local govern-
18 ment for the actual cost incurred by the local government in making public records available,
19 including costs for summarizing, compiling or tailoring the public records, either in organ-
20 ization or media, to meet the request.

21 (2) A local government may include in a fee established under subsection (1) of this sec-
22 tion the cost of time spent by an attorney for the local government in reviewing the public
23 records, redacting material from the public records or segregating the public records into
24 exempt and nonexempt records. The local government may not include in a fee established
25 under subsection (1) of this section the cost of time spent by an attorney for the local gov-
26 ernment in determining the application of the provisions of ORS 192.410 to 192.505.

27 (3) A local government may not establish a fee greater than \$25 under this section unless
28 the local government first provides the requester with a written notification of the estimated
29 amount of the fee and the requester confirms that the requester wants the local government
30 to proceed with making the public record available.

31 **SECTION 24.** Section 23 of this 2011 Act is repealed on July 1, 2013.

32 **SECTION 25.** (1) The custodian of any public record may furnish copies without charge
33 or at a substantially reduced fee if the custodian determines that the waiver or reduction
34 of fees is in the public interest because making the record available primarily benefits the
35 general public.

36 (2) A person that believes that there has been an unreasonable denial of a fee waiver or
37 fee reduction may petition the Attorney General or the district attorney in the same manner
38 as a person petitions when inspection of a public record is denied under ORS 192.410 to
39 192.505. The Attorney General, district attorney or court have the same authority in in-
40 stances when a fee waiver or reduction is denied as the Attorney General, district attorney
41 or court have when inspection of a public record is denied.

42 **SECTION 26.** A public body shall make available to the public a written procedure for
43 making public records requests that includes:

44 (1) The name of one or more persons to whom public records requests may be sent, with
45 addresses; and

1 (2) Subject to section 20 of this 2011 Act, the amounts of and the manner of calculating
2 fees that the public body charges for responding to requests for public records.

3 **SECTION 27.** (1) When a public body receives a request to inspect or receive a copy of a
4 public record under ORS 192.410 to 192.505, the public body, in order to assist the person in
5 making a focused and effective request that reasonably describes identifiable public records,
6 shall to the extent reasonable under the circumstances:

7 (a) Assist the person in identifying public records that are responsive to the request or
8 to the purpose of the request, if known by the public body; and

9 (b) Provide suggestions to the person for obtaining the information the requester is
10 seeking in the most convenient and cost-effective manner.

11 (2) This section does not apply to requests described in sections 6 or 9 of this 2011 Act.

12 **SECTION 28.** (1) Except in cases where the law specifically creates a right of action based
13 on the disclosure of particular information or records, a state agency or an official, volun-
14 teer, employee or agent of a state agency may not be liable to any person as the result of a
15 disclosure made in a good faith attempt to comply with ORS 192.410 to 192.505.

16 (2) If a state agency inadvertently discloses records that are privileged under ORS 40.225
17 to 40.295, the inadvertent disclosure does not constitute a waiver of the privilege if:

18 (a) A large volume of nonprivileged records are disclosed in response to the same request
19 for disclosure; and

20 (b) A more careful search to identify privileged materials would have created a signif-
21 icant obstacle to disclosure of nonprivileged records.

22 (3) Subsection (2) of this section may not be construed to prevent a state agency from
23 reviewing requested documents in a manner calculated to avoid the disclosure of privileged
24 materials.

25 **SECTION 29.** Section 28 of this 2011 Act is amended to read:

26 **Sec. 28.** (1) Except in cases where the law specifically creates a right of action based on the
27 disclosure of particular information or records, a [*state agency*] **public body** or an official, volunteer,
28 employee or agent of a [*state agency*] **public body** may not be liable to any person as the result of
29 a disclosure made in a good faith attempt to comply with ORS 192.410 to 192.505.

30 (2) If a [*state agency*] **public body** inadvertently discloses records that are privileged under ORS
31 40.225 to 40.295, the inadvertent disclosure does not constitute a waiver of the privilege if:

32 (a) A large volume of nonprivileged records are disclosed in response to the same request for
33 disclosure; and

34 (b) A more careful search to identify privileged materials would have created a significant ob-
35 stacle to disclosure of nonprivileged records.

36 (3) Subsection (2) of this section may not be construed to prevent a [*state agency*] **public body**
37 from reviewing requested documents in a manner calculated to avoid the disclosure of privileged
38 materials.

39 **SECTION 30.** The amendments to section 28 of this 2011 Act by section 29 of this 2011
40 Act become operative on July 1, 2013.

41 **SECTION 31.** The Attorney General shall develop training materials designed to generally
42 educate public employees with respect to the requirements of ORS 192.410 to 192.505, and
43 make those materials freely available on the Attorney General's website.

44 **SECTION 32.** ORS 192.450 is amended to read:

45 192.450. (1) Subject to [*ORS 192.480 and*] subsection (4) of this section, any person denied the

1 right to inspect or to receive a copy of any public record of a state agency may petition the Attor-
2 ney General to review the public record to determine if it may be withheld from public inspection.
3 Except as provided in subsection (5) of this section, the burden is on the agency to sustain its action.
4 Except as provided in subsection (5) of this section, the Attorney General shall issue an order de-
5 nying or granting the petition, or denying it in part and granting it in part, within seven days from
6 the day the Attorney General receives the petition.

7 (2) If the Attorney General grants the petition and orders the state agency to disclose the re-
8 cord, or if the Attorney General grants the petition in part and orders the state agency to disclose
9 a portion of the record, the state agency shall comply with the order in full within seven days after
10 issuance of the order, unless within the seven-day period it issues a notice of its intention to insti-
11 tute proceedings for injunctive or declaratory relief in the Circuit Court for Marion County or, as
12 provided in subsection (6) of this section, in the circuit court of the county where the record is held.
13 Copies of the notice shall be sent to the Attorney General and by certified mail to the petitioner
14 at the address shown on the petition. The state agency shall institute the proceedings within seven
15 days after it issues its notice of intention to do so. If the Attorney General denies the petition in
16 whole or in part, or if the state agency continues to withhold the record or a part of it
17 notwithstanding an order to disclose by the Attorney General, the person seeking disclosure may
18 institute such proceedings.

19 (3) The Attorney General shall serve as counsel for the state agency in a suit filed under sub-
20 section (2) of this section if the suit arises out of a determination by the Attorney General that the
21 public record should not be disclosed, or that a part of the public record should not be disclosed if
22 the state agency has fully complied with the order of the Attorney General requiring disclosure of
23 another part or parts of the public record, and in no other case. In any case in which the Attorney
24 General is prohibited from serving as counsel for the state agency, the agency may retain special
25 counsel.

26 (4) A person denied the right to inspect or to receive a copy of any public record of a health
27 professional regulatory board, as defined in ORS 676.160, that contains information concerning a
28 licensee or applicant, and petitioning the Attorney General to review the public record shall, on or
29 before the date of filing the petition with the Attorney General, send a copy of the petition by first
30 class mail to the health professional regulatory board. Not more than 48 hours after the board re-
31 ceives a copy of the petition, the board shall send a copy of the petition by first class mail to the
32 licensee or applicant who is the subject of any record for which disclosure is sought. When sending
33 a copy of the petition to the licensee or applicant, the board shall include a notice informing the
34 licensee or applicant that a written response by the licensee or applicant may be filed with the At-
35 torney General not later than seven days after the date that the notice was sent by the board. Im-
36 mediately upon receipt of any written response from the licensee or applicant, the Attorney General
37 shall send a copy of the response to the petitioner by first class mail.

38 (5) The person seeking disclosure of a public record of a health professional regulatory board,
39 as defined in ORS 676.160, that is confidential or exempt from disclosure under ORS 676.165 or
40 676.175, shall have the burden of demonstrating to the Attorney General by clear and convincing
41 evidence that the public interest in disclosure outweighs other interests in nondisclosure, including
42 but not limited to the public interest in nondisclosure. The Attorney General shall issue an order
43 denying or granting the petition, or denying or granting it in part, not later than the 15th day fol-
44 lowing the day that the Attorney General receives the petition. A copy of the Attorney General's
45 order granting a petition or part of a petition shall be served by first class mail on the health pro-

1 fessional regulatory board, the petitioner and the licensee or applicant who is the subject of any
 2 record ordered to be disclosed. The health professional regulatory board shall not disclose any re-
 3 cord prior to the seventh day following the service of the Attorney General's order on a licensee
 4 or applicant entitled to receive notice under this subsection.

5 (6) If the Attorney General grants or denies the petition for a record of a health professional
 6 regulatory board, as defined in ORS 676.160, that contains information concerning a licensee or ap-
 7 plicant, the board, a person denied the right to inspect or receive a copy of the record or the
 8 licensee or applicant who is the subject of the record may institute proceedings for injunctive or
 9 declaratory relief in the circuit court for the county where the public record is held. The party
 10 seeking disclosure of the record shall have the burden of demonstrating by clear and convincing
 11 evidence that the public interest in disclosure outweighs other interests in nondisclosure, including
 12 but not limited to the public interest in nondisclosure.

13 (7) The Attorney General may comply with a request of a health professional regulatory board
 14 to be represented by independent counsel in any proceeding under subsection (6) of this section.

15 **SECTION 33.** ORS 192.460 is amended to read:

16 192.460. (1) ORS 192.450 applies to the case of a person denied the right to inspect or to receive
 17 a copy of any public record of a [*public body other than a state agency*] **local government**, except
 18 that:

19 (a) The district attorney of the county in which the [*public body*] **local government** is located,
 20 or if it is located in more than one county, the district attorney of the county in which the admin-
 21 istrative offices of the [*public body*] **local government** are located, shall carry out the functions of
 22 the Attorney General;

23 (b) Any suit filed must be filed in the circuit court for the county described in paragraph (a) of
 24 this subsection; and

25 (c) The district attorney may not serve as counsel for the [*public body*] **local government**, in
 26 the cases permitted under ORS 192.450 (3), unless the district attorney ordinarily serves as counsel
 27 for the [*public body*] **local government**.

28 (2) Disclosure of a record to the district attorney in compliance with subsection (1) of this sec-
 29 tion does not waive any privilege or claim of privilege regarding the record or its contents.

30 (3) Disclosure of a record or part of a record as ordered by the district attorney is a compelled
 31 disclosure for purposes of ORS 40.285.

32 **SECTION 34.** ORS 192.465 is amended to read:

33 192.465. (1) The failure of the Attorney General or district attorney to issue an order under ORS
 34 192.450 or 192.460 denying, granting, or denying in part and granting in part a petition to require
 35 disclosure within [*seven*] **10 working** days from the day of receipt of the petition shall be treated
 36 as an order denying the petition for the purpose of determining whether a person may institute
 37 proceedings for injunctive or declaratory relief under ORS 192.450 or 192.460.

38 (2) The failure of an elected official to deny, grant, or deny in part and grant in part a request
 39 to inspect or receive a copy of a public record within [*seven*] **10 working** days from the day of re-
 40 ceipt of the request shall be treated as a denial of the request for the purpose of determining
 41 whether a person may institute proceedings for injunctive or declaratory relief under ORS 192.450
 42 or 192.460.

43 **SECTION 35.** ORS 192.490 is amended to read:

44 192.490. (1) In any suit filed under ORS 192.450, 192.460[,] **or** 192.470 [*or 192.480*], the court has
 45 jurisdiction to enjoin the public body from withholding records and to order the production of any

1 records improperly withheld from the person seeking disclosure. The court shall determine the
 2 matter de novo and the burden is on the public body to sustain its action. The court, on its own
 3 motion, may view the documents in controversy in camera before reaching a decision. Any non-
 4 compliance with the order of the court may be punished as contempt of court.

5 (2) Except as to causes the court considers of greater importance, proceedings arising under
 6 ORS 192.450, 192.460[,] **or** 192.470 [*or 192.480*] take precedence on the docket over all other causes
 7 and shall be assigned for hearing and trial at the earliest practicable date and expedited in every
 8 way.

9 (3) If a person seeking the right to inspect or to receive a copy of a public record prevails in
 10 the suit, the person shall be awarded costs and disbursements and reasonable attorney fees at trial
 11 and on appeal. If the person prevails in part, the court may in its discretion award the person costs
 12 and disbursements and reasonable attorney fees at trial and on appeal, or an appropriate portion
 13 thereof. If the state agency failed to comply with the Attorney General's order in full and did not
 14 issue a notice of intention to institute proceedings pursuant to ORS 192.450 (2) within seven days
 15 after issuance of the order, or did not institute the proceedings within seven days after issuance of
 16 the notice, the petitioner shall be awarded costs of suit at the trial level and reasonable attorney
 17 fees regardless of which party instituted the suit and regardless of which party prevailed therein.

18 **SECTION 36.** ORS 21.020 is amended to read:

19 21.020. (1) The State Court Administrator shall collect a fee of \$1 for affixing the seal of the
 20 court to a document.

21 (2) The Chief Justice of the Supreme Court by order may establish or authorize fees for copies
 22 of records of the appellate courts and the administrative offices of the State Court Administrator,
 23 for services relating to those records and for other services that the appellate courts or adminis-
 24 trative offices of the State Court Administrator are authorized or required to perform for which no
 25 fees are specifically provided by law. The fee established by the Chief Justice for paper copies of
 26 records may not exceed 25 cents per page, except for records for which additional services are re-
 27 quired. If additional services are required, fees for providing the records are subject to [*ORS*
 28 *192.440*] **section 20 of this 2011 Act.**

29 **SECTION 37.** ORS 147.421 is amended to read:

30 147.421. (1) If a public body is the custodian of any of the following information, upon the re-
 31 quest of the victim, the public body shall provide to the victim any of the following information of
 32 which it is the custodian and that is about the defendant or convicted criminal:

- 33 (a) The conviction and sentence;
- 34 (b) Criminal history;
- 35 (c) Imprisonment; and
- 36 (d) Future release from physical custody.

37 (2) A public body, in its discretion, may provide the requested information by furnishing the
 38 victim with copies of public records. The public body may charge the victim [*its actual cost*] **fees** for
 39 making public records available as provided in [*ORS 192.440 (4)*] **section 20 of this 2011 Act.**

40 (3) As used in this section:

41 (a) "Criminal history" means a description of the prior arrests, convictions and sentences of the
 42 person.

43 (b) "Future release" means the projected or scheduled date of release of the person from con-
 44 finement, the name and location of the correctional facility from which the person is to be released
 45 and the community where the person is scheduled to reside upon release.

1 (c) "Imprisonment" means the name and location of the correctional facility in which the person
2 is confined.

3 (d) "Public body" has the meaning given that term in ORS 192.410.

4 **SECTION 38.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, and
5 section 2, chapter 86, Oregon Laws 2010, is amended to read:

6 166.274. (1) A person barred from possessing or purchasing a firearm may file a petition for relief
7 from the bar in accordance with subsection (2) of this section if:

8 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (C) or 166.270;
9 or

10 (b) The person is barred from purchasing a firearm under ORS 166.470 (1)(a) to (d) or (g).

11 (2) A petition for relief described in this section must be filed in the circuit court in the
12 petitioner's county of residence.

13 (3) A person may apply once per calendar year for relief under the provisions of this section.

14 (4)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

15 (A) The city chief of police if the court in which the petition is filed is located in a city; or

16 (B) The sheriff of the county in which the court is located.

17 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the
18 petition is filed at the court.

19 (5)(a) When a petition is denied, the judge shall cause that information to be entered into the
20 Department of State Police computerized criminal history files.

21 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
22 the petitioner to be entered into the Department of State Police computerized criminal history files.
23 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
24 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
25 notify the court that granted relief under this section. The court shall review the order granting
26 relief and determine whether to rescind the order. The Department of State Police may charge a
27 reasonable fee[, *under ORS 192.440,*] for the entry and maintenance of information under this sec-
28 tion.

29 (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
30 district or other political subdivision or public corporation in this state, without appearance by at-
31 torney, may appear as a party to an action under this section.

32 (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall
33 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner
34 does not pose a threat to the safety of the public or the petitioner.

35 (8) A person barred from possessing or purchasing a firearm because the person, while a minor,
36 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
37 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
38 ible to petition for relief under this section until more than four years have passed since the
39 person was discharged from the jurisdiction of the juvenile court.

40 (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
41 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
42 then make findings and conclusions and issue a judgment based on the findings and conclusions in
43 accordance with the requirements of law.

44 (10) Filing fees shall be as for any civil action filed in the court.

45 (11)(a) Initial appeals of petitions shall be heard de novo.

1 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
 2 same manner as for any other civil action.

3 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall
 4 be ordered to pay the attorney fees for the prevailing party.

5 **SECTION 39.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,
 6 and section 3, chapter 86, Oregon Laws 2010, is amended to read:

7 166.274. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or
 8 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for
 9 relief from the bar in the circuit court in the petitioner's county of residence.

10 (2) A person may apply once per calendar year for relief under the provisions of this section.

11 (3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

12 (A) The city chief of police if the court in which the petition is filed is located in a city; or

13 (B) The sheriff of the county in which the court is located.

14 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the
 15 petition is filed at the court.

16 (4)(a) When a petition is denied, the judge shall cause that information to be entered into the
 17 Department of State Police computerized criminal history files.

18 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
 19 the petitioner to be entered into the Department of State Police computerized criminal history files.
 20 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
 21 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
 22 notify the court that granted relief under this section. The court shall review the order granting
 23 relief and determine whether to rescind the order. The Department of State Police may charge a
 24 reasonable fee[, *under ORS 192.440,*] for the entry and maintenance of information under this sec-
 25 tion.

26 (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
 27 district or other political subdivision or public corporation in this state, without appearance by at-
 28 torney, may appear as a party to an action under this section.

29 (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall
 30 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner
 31 does not pose a threat to the safety of the public or the petitioner.

32 (7) A person barred from possessing or purchasing a firearm because the person, while a minor,
 33 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
 34 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
 35 igible to petition for relief under this section until more than four years have passed since the
 36 person was discharged from the jurisdiction of the juvenile court.

37 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 38 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
 39 then make findings and conclusions and issue a judgment based on the findings and conclusions in
 40 accordance with the requirements of law.

41 (9) Filing fees shall be as for any civil action filed in the court.

42 (10)(a) Initial appeals of petitions shall be heard de novo.

43 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
 44 same manner as for any other civil action.

45 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall

1 be ordered to pay the attorney fees for the prevailing party.

2 **SECTION 40.** ORS 181.560 is amended to read:

3 181.560. (1) When a person or agency, other than a criminal justice agency or a law enforcement
4 agency, pursuant to ORS 181.555 (2), requests from the Department of State Police criminal offender
5 information regarding an individual, if the department's compiled criminal offender information on
6 the individual contains records of any conviction, or of any arrest less than one year old on which
7 there has been no acquittal or dismissal, the department shall respond to the request as follows:

8 (a) The department shall send prompt written notice of the request to the individual about whom
9 the request has been made. The department shall address the notice to the individual's last address
10 known to the department and to the individual's address, if any, supplied by the person making the
11 request. However, the department has no obligation to insure that the addresses are current. The
12 notice shall state that the department has received a request for information concerning the indi-
13 vidual and shall identify the person or agency making the request. Notice to the individual about
14 whom the request is made shall include:

15 (A) A copy of all information to be supplied to the person or agency making the request;

16 (B) Notice to the individual of the manner in which the individual may become informed of the
17 procedures adopted under ORS 181.555 (3) for challenging inaccurate criminal offender information;
18 and

19 (C) Notice to the individual of the manner in which the individual may become informed of
20 rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an
21 employer on the basis of arrest records alone may violate federal civil rights law and that the in-
22 dividual may obtain further information by contacting the Bureau of Labor and Industries.

23 (b) Fourteen days after sending notice to the individual about whom the request is made, the
24 department shall deliver to the person or agency making the request the following information if
25 held regarding any convictions and any arrests less than one year old on which the records show
26 no acquittal or dismissal:

27 (A) Date of arrest.

28 (B) Offense for which arrest was made.

29 (C) Arresting agency.

30 (D) Court of origin.

31 (E) Disposition, including sentence imposed, date of parole if any and parole revocations if any.

32 (c) The department shall deliver only the data authorized under paragraph (b) of this subsection.

33 (d) The department shall inform the person or agency requesting the criminal offender informa-
34 tion that the department's response is being furnished only on the basis of similarity of names and
35 description and that identification is not confirmed by fingerprints.

36 (2) If the department holds no criminal offender information on an individual, or the
37 department's compiled criminal offender information on the individual consists only of nonconviction
38 data, the department shall respond to a request under this section that the individual has no crimi-
39 nal record and shall release no further information.

40 (3) The department shall keep a record of all persons and agencies making inquiries under ORS
41 181.555 (2) and shall keep a record of the names of the individuals about whom such persons or
42 agencies are inquiring, regardless of whether the department has compiled any criminal offender
43 information on the individuals. These records shall be public records and shall be available for in-
44 spection under ORS 192.410 to 192.505.

45 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the depart-

1 ment from charging a reasonable fee, pursuant to [ORS 192.440] **section 20 of this 2011 Act**, for
 2 responding to a criminal offender information inquiry or for making information available under ORS
 3 181.555 or this section.

4 **SECTION 41.** ORS 192.650 is amended to read:

5 192.650. (1) The governing body of a public body shall provide for the sound, video or digital
 6 recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full
 7 recording of the meeting is required, except as otherwise provided by law, but the written minutes
 8 or recording must give a true reflection of the matters discussed at the meeting and the views of
 9 the participants. All minutes or recordings shall be available to the public within a reasonable time
 10 after the meeting, and shall include at least the following information:

11 (a) All members of the governing body present;

12 (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their dis-
 13 position;

14 (c) The results of all votes and, except for public bodies consisting of more than 25 members
 15 unless requested by a member of that body, the vote of each member by name;

16 (d) The substance of any discussion on any matter; and

17 (e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document
 18 discussed at the meeting.

19 (2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section.
 20 However, the minutes of a hearing held under ORS 332.061 shall contain only the material not ex-
 21 cluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be
 22 kept in the form of a sound or video tape or digital recording, which need not be transcribed unless
 23 otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for
 24 which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from
 25 disclosure. However, excluded materials are authorized to be examined privately by a court in any
 26 legal action and the court shall determine their admissibility.

27 (3) A reference in minutes or a recording to a document discussed at a meeting of a governing
 28 body of a public body does not affect the status of the document under ORS 192.410 to 192.505.

29 (4) A public body may charge a person a fee under [ORS 192.440] **section 20 of this 2011 Act**
 30 for the preparation of a transcript from a recording.

31 **SECTION 42.** ORS 287A.350 is amended to read:

32 287A.350. The records of registered bond ownership, whether maintained by a public body or
 33 otherwise, are not public records within the meaning of ORS 192.410 [(4)].

34 **SECTION 43.** ORS 305.493 is amended to read:

35 305.493. (1) The judge of the tax court elected or appointed under ORS 305.452 may establish a
 36 fee for comparing, or for preparing and comparing, a transcript of the record. The fee established
 37 under this subsection may not exceed the fees charged and collected by the clerks of the circuit
 38 court.

39 (2)(a) The Chief Justice of the Supreme Court by order may establish fees for copies of tax court
 40 records, for services relating to those records and for other services that the tax court, the clerk
 41 of the tax court or the State Court Administrator acting as court administrator for the tax court is
 42 authorized or required to perform.

43 (b) The Chief Justice may not establish:

44 (A) A fee for the location or inspection of court records; or

45 (B) A fee for a service under this subsection if the fee is otherwise specified by statute.

1 (3) The fee established by the Chief Justice under subsection (2) of this section for paper copies
 2 of records may not exceed 25 cents per page, except for records for which additional services are
 3 required. If additional services are required, fees for providing the records are subject to [ORS
 4 192.440] **section 20 of this 2011 Act.**

5 **SECTION 44.** ORS 646.473 is amended to read:

6 646.473. (1) Except as provided in subsection (2) of this section, ORS 646.461 to 646.475 supersede
 7 conflicting tort, restitution or other law of Oregon providing civil remedies for misappropriation of
 8 a trade secret.

9 (2) ORS 646.461 to 646.475 shall not affect:

10 (a) Contractual remedies, whether or not based upon misappropriation of a trade secret;

11 (b) Other civil remedies that are not based upon misappropriation of a trade secret;

12 (c) Criminal remedies, whether or not based upon misappropriation of a trade secret; or

13 (d) Any defense, immunity or limitation of liability afforded public bodies, their officers, em-
 14 ployees or agents under ORS 30.260 to 30.300.

15 (3) Notwithstanding any other provision in ORS 646.461 to 646.475, public bodies and their offi-
 16 cers, employees and agents are immune from any claim or action for misappropriation of a trade
 17 secret that is based on the disclosure or release of information in obedience to or in good faith re-
 18 liance on any order of disclosure issued pursuant to ORS 192.410 to [192.490] **192.505** or on the ad-
 19 vice of an attorney authorized to advise the public body, its officers, employees or agents.

20 **SECTION 45.** ORS 657.732 is amended to read:

21 657.732. (1) As used in this section, “participating state agency or organization” means:

22 (a) The Employment Department;

23 (b) Divisions and offices within the Department of Human Services that have been approved by
 24 the Director of the Employment Department, in consultation with the Education and Workforce
 25 Policy Advisor, to participate in the Interagency Shared Information System;

26 (c) The Department of Education;

27 (d) The Oregon University System;

28 (e) The Department of Community Colleges and Workforce Development; and

29 (f) Other state agencies, other governmental entities or private organizations that have applied
 30 to be participating state agencies or organizations and have been approved by the Director of the
 31 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
 32 ticipate in the Interagency Shared Information System.

33 (2) There is established the Interagency Shared Information System. The purpose of the system
 34 is to collect, analyze and share information for the development of statistical and demographic data
 35 to facilitate the creation of strategies for the purpose of improving the education, training and em-
 36 ployment programs related to enhancing Oregon’s workforce system. The system shall share aggre-
 37 gate information with a participating state agency or organization to allow the agency or
 38 organization to develop policy, evaluate policy and plan and measure performance for the purpose
 39 of improving the education, training and employment programs related to enhancing Oregon’s
 40 workforce system.

41 (3) The Director of the Employment Department shall administer and, in consultation with the
 42 Education and Workforce Policy Advisor, shall oversee the development of the Interagency Shared
 43 Information System. Participating state agencies or organizations shall enter into an interagency or
 44 other applicable agreement with the Director of the Employment Department, as administrator of
 45 the system, that:

- 1 (a) Establishes protocols for the collection and sharing of data in the system;
- 2 (b) Establishes safeguards for protecting the confidentiality of data in the system;
- 3 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
4 viduals; and
- 5 (d) Provides for the sharing of costs for designing and maintaining the system.
- 6 (4) Every participating state agency or organization shall provide information to the Interagency
7 Shared Information System. Information shall be provided in a format that encodes identifying data,
8 including the client's Social Security number, using a formula unique to the participating state
9 agency or organization that shall not be disclosed to the system.
- 10 (5) In disclosing Social Security numbers to the Interagency Shared Information System under
11 subsection (4) of this section, every participating state agency or organization shall comply with any
12 state and federal laws that govern the collection and use of Social Security numbers by a partic-
13 ipating state agency or organization and any additional requirements specified by the director, in
14 consultation with the Education and Workforce Policy Advisor, that are included in the agreement
15 entered into under subsection (3) of this section.
- 16 (6) The information in the Interagency Shared Information System is not a public record for
17 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
18 mitted to the system and the information received from the system is a public record, and the
19 custodian of such information is the participating state agency or organization that submits or re-
20 ceives the information. If the participating state agency or organization receiving the information
21 is not a public body, as defined in ORS 192.410, the Employment Department shall keep a copy of
22 the system information sent to that entity and shall be the custodian of that copy for purposes of
23 ORS 192.410 to 192.505. As custodian, the Employment Department shall limit the disclosure of, or
24 refuse to disclose, aggregate or summary level information when a small number of aggregated re-
25 cords or some other factor creates a reasonable risk that the identity of individuals may be discov-
26 ered or disclosed. The department shall refer all other requests for disclosure of system information
27 to the public body that is the custodian of the information.
- 28 (7) The Employment Department may charge a reasonable fee pursuant to [ORS 192.440] **section**
29 **20 of this 2011 Act** for the disclosure of reports to individuals or state agencies, governmental en-
30 tities or private organizations that submit data to the system and are not participating state agen-
31 cies or organizations.
- 32 (8) If a participating state agency or organization prepares or acquires a record that is confi-
33 dential under federal or state law, including ORS 192.502 (2), the participating state agency or or-
34 ganization does not violate state confidentiality laws by providing the information described in this
35 section to the Interagency Shared Information System. Notwithstanding the provisions of ORS
36 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department
37 of Community Colleges and Workforce Development and the Employment Department are authorized
38 to provide information to the Interagency Shared Information System.
- 39 (9) Notwithstanding the provisions of ORS 192.410 to 192.505, a participating state agency or
40 organization shall not allow public access to information received from the Interagency Shared In-
41 formation System that identifies a particular individual unless required by law. Any participating
42 state agency or organization shall limit the disclosure of, or refuse to disclose, aggregate or sum-
43 mary level information when a small number of aggregated records or some other factor creates a
44 reasonable risk that the identity of individuals may be discovered or disclosed.
- 45 (10) Any individual who, without proper authority, discloses confidential information under this

1 section may be disqualified from holding any appointment or employment with the State of Oregon.
2 The Employment Department shall adopt by rule procedures to prevent disclosure of confidential
3 information submitted to the Interagency Shared Information System.

4 (11) Notwithstanding subsection (4) of this section, participating state agencies or organizations
5 may not provide new information to the Interagency Shared Information System after December 31,
6 2003. Information in the system on and after January 1, 2004, may be accessed by participating state
7 agencies or organizations in accordance with this section, applicable rules adopted by the Director
8 of the Employment Department and any agreements entered into under subsection (3) of this section.

9 **SECTION 46.** ORS 657.734 is amended to read:

10 657.734. (1) As used in this section:

11 (a) "Public body" has the meaning given that term in ORS 192.410.

12 (b) "System participant" means:

13 (A) Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L.
14 105-220 and codified as 29 U.S.C. 2801 et seq.) and other one-stop system partners, which may in-
15 clude public bodies and private organizations; and

16 (B) Public bodies and private organizations that have been approved by the Director of the
17 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
18 ticipate in the Performance Reporting Information System.

19 (2) There is established the Performance Reporting Information System for the purpose of col-
20 lecting, analyzing and sharing statistical and demographic data for the development and reporting
21 of workforce system performance measures.

22 (3) The Performance Reporting Information System is intended to share the data described in
23 subsection (2) of this section, by agreement, with all system participants. The Performance Reporting
24 Information System may not contain data submitted exclusively for use in the Interagency Shared
25 Information System.

26 (4) The Director of the Employment Department shall administer and, in consultation with the
27 Education and Workforce Policy Advisor, oversee the development of the Performance Reporting
28 Information System. System participants shall be designated as participants in the system by rule
29 of the Employment Department, in consultation with the Education and Workforce Policy Advisor.
30 A system participant shall enter into an interagency or other applicable agreement with the director
31 that:

32 (a) Establishes protocols for the collection and sharing of data in the system;

33 (b) Establishes safeguards for protecting the confidentiality of data in the system;

34 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
35 viduals; and

36 (d) Provides for the sharing of costs for developing and maintaining the system.

37 (5)(a) All individual record information in the Performance Reporting Information System is
38 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to
39 192.505. As administrator of the system, the director may view all data or individual record infor-
40 mation in the system. System participants may not allow public access to information received from
41 the system that identifies a particular individual unless required by law. System participants shall
42 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
43 number of aggregated records or some other factor creates a reasonable risk that the identity of
44 individuals may be discovered or disclosed.

45 (b) System participants shall provide information in a format that encodes identifying data, in-

1 cluding the client's Social Security number, using a formula unique to the system participant. In
2 disclosing Social Security numbers to the system, system participants shall comply with any state
3 and federal laws that govern the collection and use of Social Security numbers by the system par-
4 ticipant and any additional requirements specified by the director, in consultation with the Educa-
5 tion and Workforce Policy Advisor, that are included in the agreement entered into under subsection
6 (4) of this section.

7 (6) The information in the Performance Reporting Information System is not a public record for
8 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
9 mitted to the system and the information received from the system is a public record, and the
10 custodian of such information is the system participant that submits or receives the information. If
11 the system participant receiving the information is not a public body, the department shall keep a
12 copy of the system information sent to that system participant and shall be the custodian of that
13 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
14 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
15 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
16 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
17 mation to the public body that is the custodian of the information.

18 (7) The department may charge a reasonable fee under [ORS 192.440] **section 20 of this 2011**
19 **Act** for the disclosure of reports containing only aggregate data to individuals, public bodies or
20 private organizations.

21 (8) If a system participant prepares or acquires a record that is confidential under federal or
22 state law, including ORS 192.502 (2), the system participant does not violate state confidentiality
23 laws by providing the information described in this section to the Performance Reporting Informa-
24 tion System. Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339,
25 the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Devel-
26 opment and the Employment Department are authorized to provide information to the system.

27 (9) Any individual who, without proper authority, discloses confidential information under this
28 section may be disqualified from holding any appointment or employment with the State of Oregon.
29 The department shall adopt by rule procedures to prevent disclosure of confidential information
30 submitted to the Performance Reporting Information System.

31 **SECTION 47.** ORS 802.183 is amended to read:

32 802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
33 imburse it for its actual cost in making personal information available to a person or government
34 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
35 section are subject to the provisions of [ORS 192.440 (4) to (6)] **section 20 of this 2011 Act**.

36 (2) The department may adopt rules specifying conditions that must be met by a person or gov-
37 ernment agency requesting personal information under ORS 802.179. Such conditions may include
38 but need not be limited to:

39 (a) Providing reasonable assurance of the identity of the requester;

40 (b) Providing reasonable assurance of the uses to which the personal information will be put, if
41 applicable;

42 (c) Showing that the individual whose personal information is to be disclosed has given permis-
43 sion for the disclosure, if permission is required; and

44 (d) Submitting a written request for the personal information in a form prescribed by the de-
45 partment.

1 **SECTION 48.** Sections 3, 6, 9, 12 to 15, 18, 20, 23, 25 to 28 and 31 of this 2011 Act and ORS
2 192.447 and 192.493 are added to and made a part of ORS 192.410 to 192.505.

3 **SECTION 49.** ORS 192.480 is repealed.

4 **SECTION 50.** This 2011 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
6 on its passage.

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