

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3363
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

June 3

1 On page 6 of the printed A-engrossed bill, line 40, after “commenced” insert “or pending
2 before,”.

3 After line 41, insert:

4 **“SECTION 7. If Senate Bill 622 becomes law, section 2 of this 2013 Act (amending ORS**
5 **419A.255) is repealed and ORS 419A.255, as amended by section 3, chapter __, Oregon Laws**
6 **2013 (Enrolled Senate Bill 622), is amended to read:**

7 “419A.255. (1)(a) The clerk of the court shall keep a supplemental confidential file for each case
8 and a record of each case except as otherwise provided in ORS 7.120.

9 “(b) The record of the case shall be withheld from public inspection but is open to inspection
10 by the following:

11 “(A) The judge of the juvenile court and those acting under the judge’s direction;

12 “(B) The child;

13 “(C) The ward;

14 “(D) The youth;

15 “(E) The youth offender;

16 “(F) The parent or guardian of the child, ward, youth or youth offender;

17 “(G) The guardian ad litem for the parent;

18 “(H) The surrogate;

19 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
20 offender;

21 “(J) Service providers in the case;

22 “(K) The court appointed special advocate, and a representative of a CASA Volunteer Program
23 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-**
24 **pointment or supervision of court appointed special advocates;**

25 “(L) The attorneys or prospective appellate attorneys for any of the persons listed in subpara-
26 graphs (B) to (K) of this paragraph;

27 “(M) The district attorney or assistant attorney general representing a party in the case;

28 “(N) The juvenile department;

29 “(O) The Department of Human Services; and

30 “(P) The Oregon Youth Authority.

31 “(c) The following are entitled to copies of the record of the case:

32 “(A) The judge of the juvenile court and those acting under the judge’s direction;

33 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);

34 “(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under

1 ORS 419B.875 (2) or 419C.285 (2); and

2 “(D) Persons listed in paragraph (b)(J) to (P) of this subsection.

3 “(2)(a) Reports and other material relating to the child, ward, youth or youth offender’s history
4 and prognosis in the supplemental confidential file or record of the case are privileged and, except
5 at the request of the child, ward, youth or youth offender, shall be withheld from public inspection.
6 Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth
7 offender’s history and prognosis become part of the record of the case but are subject to paragraph
8 (e) of this subsection.

9 “(b) A supplemental confidential file is open to inspection by the following:

10 “(A) The judge of the juvenile court and those acting under the judge’s direction;

11 “(B) The parent or guardian of the child or ward in a dependency case;

12 “(C) The guardian ad litem for the parent of a child or ward in a dependency case;

13 “(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth
14 or youth offender consents to, or the court authorizes, inspection;

15 “(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if
16 the youth or youth offender consents to, or the court authorizes, inspection;

17 “(F) Service providers in the case;

18 “(G) The attorneys or prospective appellate attorneys for:

19 “(i) The child;

20 “(ii) The ward;

21 “(iii) The youth;

22 “(iv) The youth offender;

23 “(v) The parent or guardian of the child, ward, youth or youth offender; or

24 “(vi) The guardian ad litem for the parent;

25 “(H) The surrogate;

26 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
27 offender;

28 “(J) The court appointed special advocate, and a representative of a CASA Volunteer Program
29 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-
30 pointment or supervision of court appointed special advocates;**

31 “(K) The district attorney or assistant attorney general representing a party in the case;

32 “(L) The juvenile department;

33 “(M) The Department of Human Services; and

34 “(N) The Oregon Youth Authority.

35 “(c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the
36 superintendent of the school district in which the youth offender resides or the superintendent’s
37 designee.

38 “(d) The following are entitled to copies of material maintained in the supplemental confidential
39 file:

40 “(A) The judge of the juvenile court and those acting under the judge’s direction;

41 “(B) Service providers in the case;

42 “(C) School superintendents and their designees in cases under ORS 419C.005;

43 “(D) Attorneys designated under subsection (1)(b)(L) of this section;

44 “(E) The district attorney or assistant attorney general representing a party in the case;

45 “(F) The juvenile department;

1 “(G) The Department of Human Services;

2 “(H) The Oregon Youth Authority; and

3 “(I) The court appointed special advocate, and a representative of a CASA Volunteer Program
4 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-
5 pointment or supervision of court appointed special advocates.**

6 “(e) A person that obtains copies of material in the supplemental confidential file pursuant to
7 paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in
8 the supplemental confidential file. A service provider, school superintendent or superintendent’s
9 designee who obtains copies of such material shall destroy the copies upon the conclusion of in-
10 volvement in the case.

11 “(3) Except as otherwise provided in subsection (5) of this section, no information appearing in
12 the record of the case or in the supplemental confidential file may be disclosed to any person not
13 described in subsection (2) of this section without the consent of the court, except for purposes of
14 evaluating the child, ward, youth or youth offender’s eligibility for special education as provided in
15 ORS chapter 343, and no such information may be used in evidence in any proceeding to establish
16 criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding
17 occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, ex-
18 cept for the following purposes:

19 “(a) In connection with a presentence investigation after guilt has been admitted or established
20 in a criminal court.

21 “(b) In connection with a proceeding in another juvenile court concerning the child, ward, youth
22 or youth offender or an appeal from the juvenile court.

23 “(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects
24 or obtains copies of reports, materials or documents under this subsection or under subsection (1)
25 or (2) of this section, the person may not use or disclose the reports, materials or documents, except:

26 “(A) As provided in this subsection or under subsection (1) or (2) of this section;

27 “(B) In the juvenile court proceeding for which the reports, materials or documents were sought
28 or disclosed;

29 “(C) With the consent of the court; or

30 “(D) As provided in ORS 419A.253.

31 “(b) Nothing in this section prohibits the district attorney or assistant attorney general repre-
32 senting a party in a juvenile court proceeding, the juvenile department, the Department of Human
33 Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from
34 disclosing to each other reports, materials or documents described in subsections (1) and (2) of this
35 section if the disclosure is reasonably necessary to perform official duties related to the involvement
36 of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A
37 person to whom reports, materials or documents are disclosed under this subsection is subject to
38 subsection (3) of this section.

39 “(5)(a) Information contained in the supplemental confidential file that, in the professional
40 judgment of the juvenile counselor, caseworker, school superintendent or superintendent’s designee,
41 teacher or detention worker to whom the information in the supplemental confidential file has been
42 provided, indicates a clear and immediate danger to another person or to society shall be disclosed
43 to the appropriate authority and the person who is in danger from the child, ward, youth or youth
44 offender.

45 “(b) A person that discloses information under paragraph (a) of this subsection has immunity

1 from any liability, civil or criminal, that might otherwise be incurred or imposed for making the
2 disclosure.

3 “(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
4 and 419B.045. The disclosure of information under this subsection does not make the information
5 admissible in any court or administrative proceeding if it is not otherwise admissible.

6 “(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section,
7 the following are not confidential and not exempt from disclosure:

8 “(a) The name and date of birth of the youth or youth offender;

9 “(b) The basis for the juvenile court’s jurisdiction over the youth or youth offender;

10 “(c) The date, time and place of any juvenile court proceeding in which the youth or youth
11 offender is involved;

12 “(d) The act alleged in the petition that if committed by an adult would constitute a crime if
13 jurisdiction is based on ORS 419C.005;

14 “(e) That portion of the juvenile court order providing for the legal disposition of the youth or
15 youth offender when jurisdiction is based on ORS 419C.005;

16 “(f) The names and addresses of the youth or youth offender’s parents or guardians; and

17 “(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

18 “(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section,
19 when a youth has been taken into custody under ORS 419C.080, the following information shall be
20 disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of
21 a specific investigation, including the need to protect the complaining party or the victim:

22 “(a) The youth’s name and age and whether the youth is employed or in school;

23 “(b) The youth offense for which the youth was taken into custody;

24 “(c) The name and age of the adult complaining party and the adult victim, unless the disclosure
25 of such information is otherwise prohibited or restricted;

26 “(d) The identity of the investigating and arresting agency; and

27 “(e) The time and place that the youth was taken into custody and whether there was resist-
28 ance, pursuit or a weapon used in taking the youth into custody.

29 “(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county
30 juvenile department may disclose the information under subsections (6) and (7) of this section if the
31 information is subject to disclosure, unless otherwise directed by the court.

32 “(9) Nothing in this section limits access to any juvenile court records by an appellate court
33 reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for
34 appellate court access to juvenile records.

35 “(10) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is
36 within the jurisdiction of the court, or a motion requesting an implementation plan other than return
37 of a ward to the ward’s parent, is subject to disclosure to the consulate for the child or ward’s
38 country as provided under ORS 419B.851 (3).

39 “(11) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366
40 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties
41 of a guardian.

42 “(12) The court shall cooperate in the sharing of information with a court in another state to
43 facilitate an interstate placement of a child or ward.

44 “**SECTION 8.** If Senate Bill 622 becomes law, ORS 419A.255, as amended by sections 3 and 11,
45 chapter ___, Oregon Laws 2013 (Enrolled Senate Bill 622), is amended to read:

1 “419A.255. (1)(a) The clerk of the court shall keep a supplemental confidential file for each case
2 and a record of each case except as otherwise provided in ORS 7.120.

3 “(b) The record of the case shall be withheld from public inspection but is open to inspection
4 by the following:

5 “(A) The judge of the juvenile court and those acting under the judge’s direction;

6 “(B) The child;

7 “(C) The ward;

8 “(D) The youth;

9 “(E) The youth offender;

10 “(F) The parent or guardian of the child, ward, youth or youth offender;

11 “(G) The guardian ad litem for the parent;

12 “(H) The surrogate;

13 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
14 offender;

15 “(J) Service providers in the case;

16 “(K) The court appointed special advocate, and a representative of a CASA Volunteer Program
17 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-**
18 **pointment or supervision of court appointed special advocates;**

19 “(L) The attorneys or prospective appellate attorneys for any of the persons listed in subpara-
20 graphs (B) to (K) of this paragraph;

21 “(M) The district attorney or assistant attorney general representing a party in the case;

22 “(N) The juvenile department;

23 “(O) The Department of Human Services;

24 “(P) The Oregon Youth Authority; and

25 “(Q) Any other person allowed by the court.

26 “(c) The following are entitled to copies of the record of the case:

27 “(A) The judge of the juvenile court and those acting under the judge’s direction;

28 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);

29 “(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under
30 ORS 419B.875 (2) or 419C.285 (2);

31 “(D) Persons listed in paragraph (b)(J) to (P) of this subsection; and

32 “(E) Any other person allowed by the court.

33 “(2)(a) Reports and other material relating to the child, ward, youth or youth offender’s history
34 and prognosis in the supplemental confidential file or record of the case are privileged and, except
35 at the request of the child, ward, youth or youth offender, shall be withheld from public inspection.
36 Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth
37 offender’s history and prognosis become part of the record of the case but are subject to paragraph
38 (e) of this subsection.

39 “(b) A supplemental confidential file is open to inspection by the following:

40 “(A) The judge of the juvenile court and those acting under the judge’s direction;

41 “(B) The parent or guardian of the child or ward in a dependency case;

42 “(C) The guardian ad litem for the parent of a child or ward in a dependency case;

43 “(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth
44 or youth offender consents to, or the court authorizes, inspection;

45 “(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if

1 the youth or youth offender consents to, or the court authorizes, inspection;

2 “(F) Service providers in the case;

3 “(G) The attorneys or prospective appellate attorneys for:

4 “(i) The child;

5 “(ii) The ward;

6 “(iii) The youth;

7 “(iv) The youth offender;

8 “(v) The parent or guardian of the child, ward, youth or youth offender; or

9 “(vi) The guardian ad litem for the parent;

10 “(H) The surrogate;

11 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth

12 offender;

13 “(J) The court appointed special advocate, and a representative of a CASA Volunteer Program

14 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-**

15 **pointment or supervision of court appointed special advocates;**

16 “(K) The district attorney or assistant attorney general representing a party in the case;

17 “(L) The juvenile department;

18 “(M) The Department of Human Services;

19 “(N) The Oregon Youth Authority; and

20 “(O) Any other person allowed by the court.

21 “(c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the

22 superintendent of the school district in which the youth offender resides or the superintendent’s

23 designee.

24 “(d) The following are entitled to copies of material maintained in the supplemental confidential

25 file:

26 “(A) The judge of the juvenile court and those acting under the judge’s direction;

27 “(B) Service providers in the case;

28 “(C) School superintendents and their designees in cases under ORS 419C.005;

29 “(D) Attorneys designated under subsection (1)(b)(L) of this section;

30 “(E) The district attorney or assistant attorney general representing a party in the case;

31 “(F) The juvenile department;

32 “(G) The Department of Human Services;

33 “(H) The Oregon Youth Authority;

34 “(I) The court appointed special advocate, and a representative of a CASA Volunteer Program

35 as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the ap-**

36 **pointment or supervision of court appointed special advocates;** and

37 “(J) Any other person allowed by the court.

38 “(e) A person that obtains copies of material in the supplemental confidential file pursuant to

39 paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in

40 the supplemental confidential file. A service provider, school superintendent or superintendent’s

41 designee who obtains copies of such material shall destroy the copies upon the conclusion of in-

42 volvement in the case.

43 “(3) Except as otherwise provided in subsection (5) of this section, no information appearing in

44 the record of the case or in the supplemental confidential file may be disclosed to any person not

45 described in subsection (2) of this section without the consent of the court, except for purposes of

1 evaluating the child, ward, youth or youth offender's eligibility for special education as provided in
2 ORS chapter 343, and no such information may be used in evidence in any proceeding to establish
3 criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding
4 occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, ex-
5 cept for the following purposes:

6 "(a) In connection with a presentence investigation after guilt has been admitted or established
7 in a criminal court.

8 "(b) In connection with a proceeding in another juvenile court concerning the child, ward, youth
9 or youth offender or an appeal from the juvenile court.

10 "(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects
11 or obtains copies of reports, materials or documents under this subsection or under subsection (1)
12 or (2) of this section, the person may not use or disclose the reports, materials or documents, except:

13 "(A) As provided in this subsection or under subsection (1) or (2) of this section;

14 "(B) In the juvenile court proceeding for which the reports, materials or documents were sought
15 or disclosed;

16 "(C) With the consent of the court; or

17 "(D) As provided in ORS 419A.253.

18 "(b) Nothing in this section prohibits the district attorney or assistant attorney general repre-
19 senting a party in a juvenile court proceeding, the juvenile department, the Department of Human
20 Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from
21 disclosing to each other reports, materials or documents described in subsections (1) and (2) of this
22 section if the disclosure is reasonably necessary to perform official duties related to the involvement
23 of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A
24 person to whom reports, materials or documents are disclosed under this subsection is subject to
25 subsection (3) of this section.

26 "(5)(a) Information contained in the supplemental confidential file that, in the professional
27 judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee,
28 teacher or detention worker to whom the information in the supplemental confidential file has been
29 provided, indicates a clear and immediate danger to another person or to society shall be disclosed
30 to the appropriate authority and the person who is in danger from the child, ward, youth or youth
31 offender.

32 "(b) A person that discloses information under paragraph (a) of this subsection has immunity
33 from any liability, civil or criminal, that might otherwise be incurred or imposed for making the
34 disclosure.

35 "(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
36 and 419B.045. The disclosure of information under this subsection does not make the information
37 admissible in any court or administrative proceeding if it is not otherwise admissible.

38 "(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section,
39 the following are not confidential and not exempt from disclosure:

40 "(a) The name and date of birth of the youth or youth offender;

41 "(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

42 "(c) The date, time and place of any juvenile court proceeding in which the youth or youth
43 offender is involved;

44 "(d) The act alleged in the petition that if committed by an adult would constitute a crime if
45 jurisdiction is based on ORS 419C.005;

1 “(e) That portion of the juvenile court order providing for the legal disposition of the youth or
2 youth offender when jurisdiction is based on ORS 419C.005;

3 “(f) The names and addresses of the youth or youth offender’s parents or guardians; and

4 “(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

5 “(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section,
6 when a youth has been taken into custody under ORS 419C.080, the following information shall be
7 disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of
8 a specific investigation, including the need to protect the complaining party or the victim:

9 “(a) The youth’s name and age and whether the youth is employed or in school;

10 “(b) The youth offense for which the youth was taken into custody;

11 “(c) The name and age of the adult complaining party and the adult victim, unless the disclosure
12 of such information is otherwise prohibited or restricted;

13 “(d) The identity of the investigating and arresting agency; and

14 “(e) The time and place that the youth was taken into custody and whether there was resist-
15 ance, pursuit or a weapon used in taking the youth into custody.

16 “(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county
17 juvenile department may disclose the information under subsections (6) and (7) of this section if the
18 information is subject to disclosure, unless otherwise directed by the court.

19 “(9) Nothing in this section limits access to any juvenile court records by an appellate court
20 reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for
21 appellate court access to juvenile records.

22 “(10) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is
23 within the jurisdiction of the court, or a motion requesting an implementation plan other than return
24 of a ward to the ward’s parent, is subject to disclosure to the consulate for the child or ward’s
25 country as provided under ORS 419B.851 (3).

26 “(11) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366
27 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties
28 of a guardian.

29 “(12) The court shall cooperate in the sharing of information with a court in another state to
30 facilitate an interstate placement of a child or ward.

31 **“SECTION 9. If Senate Bill 622 becomes law, section 3 of this 2013 Act (amending ORS
32 419A.256) is repealed.**

33 **“SECTION 10.** If Senate Bill 622 becomes law, section 6 of this 2013 Act is amended to read:

34 **“Sec. 6.** The amendments to ORS 419A.255[, 419A.256] and 419B.881 by sections 1 [to 3] **and 7**
35 of this 2013 Act apply to dependency proceedings commenced or pending before, on or after the ef-
36 fective date of this 2013 Act.”.

37