

## HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 622

By COMMITTEE ON JUDICIARY

May 22

- 1 On page 3 of the printed A-engrossed bill, line 3, delete “a record of each case”.
- 2 In line 6, delete “and”.
- 3 In line 7, after “case” insert “and a record of each case except as otherwise provided in ORS
- 4 7.120”.
- 5 In line 27, after the semicolon insert “and”.
- 6 In line 28, delete “; and” and insert a period.
- 7 Delete line 29.
- 8 In line 34, after the semicolon insert “and”.
- 9 In line 35, delete “; and” and insert a period.
- 10 Delete line 36.
- 11 On page 4, line 23, after the semicolon insert “and”.
- 12 In line 24, delete “; and” and insert a period.
- 13 Delete line 25.
- 14 In line 40, after the semicolon insert “and”.
- 15 In line 42, delete “; and” and insert a period.
- 16 Delete line 43.
- 17 On page 14, after line 25, insert:
- 18 “**SECTION 11.** ORS 419A.255, as amended by section 3 of this 2013 Act, is amended to read:
- 19 “419A.255. (1)(a) The clerk of the court shall keep a supplemental confidential file for each case
- 20 and a record of each case except as otherwise provided in ORS 7.120.
- 21 “(b) The record of the case shall be withheld from public inspection but is open to inspection
- 22 by the following:
- 23 “(A) The judge of the juvenile court and those acting under the judge’s direction;
- 24 “(B) The child;
- 25 “(C) The ward;
- 26 “(D) The youth;
- 27 “(E) The youth offender;
- 28 “(F) The parent or guardian of the child, ward, youth or youth offender;
- 29 “(G) The guardian ad litem for the parent;
- 30 “(H) The surrogate;
- 31 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
- 32 offender;
- 33 “(J) Service providers in the case;
- 34 “(K) The court appointed special advocate and a representative of a CASA Volunteer Program
- 35 as defined in section 3, chapter 97, Oregon Laws 2012;

1 “(L) The attorneys or prospective appellate attorneys for any of the persons listed in subpara-  
2 graphs (B) to (K) of this paragraph;  
3 “(M) The district attorney or assistant attorney general representing a party in the case;  
4 “(N) The juvenile department;  
5 “(O) The Department of Human Services; [and]  
6 “(P) The Oregon Youth Authority; **and**  
7 **“(Q) Any other person allowed by the court.**  
8 “(c) The following are entitled to copies of the record of the case:  
9 “(A) The judge of the juvenile court and those acting under the judge’s direction;  
10 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);  
11 “(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under  
12 ORS 419B.875 (2) or 419C.285 (2); [and]  
13 “(D) Persons listed in paragraph (b)(J) to (P) of this subsection; **and**  
14 **“(E) Any other person allowed by the court.**  
15 “(2)(a) Reports and other material relating to the child, ward, youth or youth offender’s history  
16 and prognosis in the supplemental confidential file or record of the case are privileged and, except  
17 at the request of the child, ward, youth or youth offender, shall be withheld from public inspection.  
18 Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth  
19 offender’s history and prognosis become part of the record of the case but are subject to paragraph  
20 (e) of this subsection.  
21 “(b) A supplemental confidential file is open to inspection by the following:  
22 “(A) The judge of the juvenile court and those acting under the judge’s direction;  
23 “(B) The parent or guardian of the child or ward in a dependency case;  
24 “(C) The guardian ad litem for the parent of a child or ward in a dependency case;  
25 “(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth  
26 or youth offender consents to, or the court authorizes, inspection;  
27 “(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if  
28 the youth or youth offender consents to, or the court authorizes, inspection;  
29 “(F) Service providers in the case;  
30 “(G) The attorneys or prospective appellate attorneys for:  
31 “(i) The child;  
32 “(ii) The ward;  
33 “(iii) The youth;  
34 “(iv) The youth offender;  
35 “(v) The parent or guardian of the child, ward, youth or youth offender; or  
36 “(vi) The guardian ad litem for the parent;  
37 “(H) The surrogate;  
38 “(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth  
39 offender;  
40 “(J) The court appointed special advocate and a representative of a CASA Volunteer Program  
41 as defined in section 3, chapter 97, Oregon Laws 2012;  
42 “(K) The district attorney or assistant attorney general representing a party in the case;  
43 “(L) The juvenile department;  
44 “(M) The Department of Human Services; [and]  
45 “(N) The Oregon Youth Authority; **and**

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

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

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

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

8       “(B) Service providers in the case;

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

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

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

12       “(F) The juvenile department;

13       “(G) The Department of Human Services;

14       “(H) The Oregon Youth Authority; *[and]*

15       “(I) The court appointed special advocate and a representative of a CASA Volunteer Program  
16 as defined in section 3, chapter 97, Oregon Laws 2012; **and**

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

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

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

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

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

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

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

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

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

42       “(D) As provided in ORS 419A.253.

43       “(b) Nothing in this section prohibits the district attorney or assistant attorney general repre-  
44 senting a party in a juvenile court proceeding, the juvenile department, the Department of Human  
45 Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from

1 disclosing to each other reports, materials or documents described in subsections (1) and (2) of this  
2 section if the disclosure is reasonably necessary to perform official duties related to the involvement  
3 of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A  
4 person to whom reports, materials or documents are disclosed under this subsection is subject to  
5 subsection (3) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 appellate court access to juvenile records.

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

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

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

11 **“SECTION 12. The amendments to ORS 419A.255 by section 11 of this 2013 Act:**

12 **“(1) Become operative on July 1, 2014; and**

13 **“(2) Apply to juvenile court proceedings commenced on or after the operative date spec-**  
14 **ified in subsection (1) of this section.”.**

15 In line 26, delete “11” and insert “13” and delete “AND” and insert “and”.  
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