

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED HOUSE BILL 3363**

1 On page 6 of the printed A-engrossed bill, after line 41, insert:

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3 **Act (amending ORS 419A.255) is repealed and ORS 419A.255, as**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

6 “419A.255. (1)(a) The clerk of the court shall keep a supplemental confi-
7 dential file for each case and a record of each case except as otherwise pro-
8 vided in ORS 7.120.

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

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

13 “(B) The child;

14 “(C) The ward;

15 “(D) The youth;

16 “(E) The youth offender;

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

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

19 “(H) The surrogate;

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

22 “(J) Service providers in the case;

1 “(K) The court appointed special advocate, and a representative of a
2 CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws
3 2012, **when reasonably necessary for the appointment or supervision**
4 **of court appointed special advocates;**

5 “(L) The attorneys or prospective appellate attorneys for any of the per-
6 sons listed in subparagraphs (B) to (K) of this paragraph;

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

9 “(N) The juvenile department;

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

11 “(P) The Oregon Youth Authority.

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

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

15 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285
16 (2);

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

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

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

27 “(b) A supplemental confidential file is open to inspection by the follow-
28 ing:

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

1 “(B) The parent or guardian of the child or ward in a dependency case;
2 “(C) The guardian ad litem for the parent of a child or ward in a de-
3 pendency case;
4 “(D) The parent or guardian of the youth or youth offender in a delin-
5 quency case if the youth or youth offender consents to, or the court author-
6 izes, inspection;
7 “(E) The guardian ad litem for the parent of a youth or youth offender
8 in a delinquency case if the youth or youth offender consents to, or the court
9 authorizes, inspection;
10 “(F) Service providers in the case;
11 “(G) The attorneys or prospective appellate attorneys for:
12 “(i) The child;
13 “(ii) The ward;
14 “(iii) The youth;
15 “(iv) The youth offender;
16 “(v) The parent or guardian of the child, ward, youth or youth offender;
17 or
18 “(vi) The guardian ad litem for the parent;
19 “(H) The surrogate;
20 “(I) A person allowed to intervene in a proceeding involving the child,
21 ward, youth or youth offender;
22 “(J) The court appointed special advocate, and a representative of a
23 CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws
24 2012, **when reasonably necessary for the appointment or supervision**
25 **of court appointed special advocates;**
26 “(K) The district attorney or assistant attorney general representing a
27 party in the case;
28 “(L) The juvenile department;
29 “(M) The Department of Human Services; and
30 “(N) The Oregon Youth Authority.

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

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

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

8 “(B) Service providers in the case;

9 “(C) School superintendents and their designees in cases under ORS
10 419C.005;

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

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

14 “(F) The juvenile department;

15 “(G) The Department of Human Services;

16 “(H) The Oregon Youth Authority; and

17 “(I) The court appointed special advocate, and a representative of a CASA
18 Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012,
19 **when reasonably necessary for the appointment or supervision of court**
20 **appointed special advocates.**

21 “(e) A person that obtains copies of material in the supplemental confi-
22 dential file pursuant to paragraph (d) of this subsection is responsible for
23 preserving the confidentiality of the material in the supplemental confiden-
24 tial file. A service provider, school superintendent or superintendent’s
25 designee who obtains copies of such material shall destroy the copies upon
26 the conclusion of involvement in the case.

27 “(3) Except as otherwise provided in subsection (5) of this section, no in-
28 formation appearing in the record of the case or in the supplemental confi-
29 dential file may be disclosed to any person not described in subsection (2)
30 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
2 education as provided in ORS chapter 343, and no such information may be
3 used in evidence in any proceeding to establish criminal or civil liability
4 against the child, ward, youth or youth offender, whether such proceeding
5 occurs after the child, ward, youth or youth offender has reached 18 years
6 of age or otherwise, except for the following purposes:

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

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

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

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

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

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

20 “(D) As provided in ORS 419A.253.

21 “(b) Nothing in this section prohibits the district attorney or assistant
22 attorney general representing a party in a juvenile court proceeding, the
23 juvenile department, the Department of Human Services, the Oregon Youth
24 Authority or other parties in the proceeding or their attorneys from dis-
25 closing to each other reports, materials or documents described in sub-
26 sections (1) and (2) of this section if the disclosure is reasonably necessary
27 to perform official duties related to the involvement of the child, ward, youth
28 or youth offender with the juvenile court or the juvenile department. A
29 person to whom reports, materials or documents are disclosed under this
30 subsection is subject to subsection (3) of this section.

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

8 “(b) A person that discloses information under paragraph (a) of this sub-
9 section has immunity from any liability, civil or criminal, that might other-
10 wise be incurred or imposed for making the disclosure.

11 “(c) Nothing in this subsection affects the provisions of ORS 146.750,
12 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under
13 this subsection does not make the information admissible in any court or
14 administrative proceeding if it is not otherwise admissible.

15 “(6) Notwithstanding any other provision of law, and subject to sub-
16 section (8) of this section, the following are not confidential and not exempt
17 from disclosure:

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

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

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

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

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

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

30 “(g) The register described in ORS 7.020 when jurisdiction is based on

1 ORS 419C.005.

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

8 “(a) The youth’s name and age and whether the youth is employed or in
9 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 vic-
12 tim, unless the disclosure of such information is otherwise prohibited or re-
13 stricted;

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

15 “(e) The time and place that the youth was taken into custody and
16 whether there was resistance, pursuit or a weapon used in taking the youth
17 into custody.

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

22 “(9) Nothing in this section limits access to any juvenile court records
23 by an appellate court reviewing a juvenile court order or judgment. Appel-
24 late court rules may establish procedures for appellate court access to juve-
25 nile records.

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

1 “(11) Nothing in this section prohibits a guardian appointed under ORS
2 419B.365 or 419B.366 from disclosing or providing copies of letters of
3 guardianship when so required to fulfill the duties of a guardian.

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

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

9 “419A.255. (1)(a) The clerk of the court shall keep a supplemental confi-
10 dential file for each case and a record of each case except as otherwise pro-
11 vided in ORS 7.120.

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

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

16 “(B) The child;

17 “(C) The ward;

18 “(D) The youth;

19 “(E) The youth offender;

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

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

22 “(H) The surrogate;

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

25 “(J) Service providers in the case;

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

30 “(L) The attorneys or prospective appellate attorneys for any of the per-

1 sons listed in subparagraphs (B) to (K) of this paragraph;

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

4 “(N) The juvenile department;

5 “(O) The Department of Human Services;

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
10 direction;

11 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285
12 (2);

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

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

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

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

24 “(b) A supplemental confidential file is open to inspection by the follow-
25 ing:

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

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

29 “(C) The guardian ad litem for the parent of a child or ward in a de-
30 pendency case;

1 “(D) The parent or guardian of the youth or youth offender in a delin-
2 quency case if the youth or youth offender consents to, or the court author-
3 izes, inspection;

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

7 “(F) Service providers in the case;

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

9 “(i) The child;

10 “(ii) The ward;

11 “(iii) The youth;

12 “(iv) The youth offender;

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

14 or

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

16 “(H) The surrogate;

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

19 “(J) The court appointed special advocate, and a representative of a
20 CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws
21 2012, **when reasonably necessary for the appointment or supervision**
22 **of court appointed special advocates;**

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

25 “(L) The juvenile department;

26 “(M) The Department of Human Services;

27 “(N) The Oregon Youth Authority; and

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

29 “(c) The supplemental confidential file in cases under ORS 419C.005 may
30 be disclosed to the superintendent of the school district in which the youth

1 offender resides or the superintendent's designee.

2 "d) The following are entitled to copies of material maintained in the
3 supplemental confidential file:

4 "(A) The judge of the juvenile court and those acting under the judge's
5 direction;

6 "(B) Service providers in the case;

7 "(C) School superintendents and their designees in cases under ORS
8 419C.005;

9 "(D) Attorneys designated under subsection (1)(b)(L) of this section;

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

12 "(F) The juvenile department;

13 "(G) The Department of Human Services;

14 "(H) The Oregon Youth Authority;

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

19 "(J) Any other person allowed by the court.

20 "(e) A person that obtains copies of material in the supplemental confi-
21 dential file pursuant to paragraph (d) of this subsection is responsible for
22 preserving the confidentiality of the material in the supplemental confiden-
23 tial file. A service provider, school superintendent or superintendent's
24 designee who obtains copies of such material shall destroy the copies upon
25 the conclusion of involvement in the case.

26 "(3) Except as otherwise provided in subsection (5) of this section, no in-
27 formation appearing in the record of the case or in the supplemental confi-
28 dential file may be disclosed to any person not described in subsection (2)
29 of this section without the consent of the court, except for purposes of
30 evaluating the child, ward, youth or youth offender's eligibility for special

1 education as provided in ORS chapter 343, and no such information may be
2 used in evidence in any proceeding to establish criminal or civil liability
3 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
5 of age or otherwise, except for the following purposes:

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

8 “(b) In connection with a proceeding in another juvenile court concerning
9 the child, ward, youth 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)
11 of this section inspects or obtains copies of reports, materials or documents
12 under this subsection or under subsection (1) or (2) of this section, the person
13 may not use or disclose the reports, materials or documents, except:

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

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

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

19 “(D) As provided in ORS 419A.253.

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

30 “(5)(a) Information contained in the supplemental confidential file that,

1 in the professional judgment of the juvenile counselor, caseworker, school
2 superintendent or superintendent's designee, teacher or detention worker to
3 whom the information in the supplemental confidential file has been pro-
4 vided, indicates a clear and immediate danger to another person or to society
5 shall be disclosed to the appropriate authority and the person who is in
6 danger from the child, ward, youth or youth offender.

7 “(b) A person that discloses information under paragraph (a) of this sub-
8 section has immunity from any liability, civil or criminal, that might other-
9 wise be incurred or imposed for making the disclosure.

10 “(c) Nothing in this subsection affects the provisions of ORS 146.750,
11 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under
12 this subsection does not make the information admissible in any court or
13 administrative proceeding if it is not otherwise admissible.

14 “(6) Notwithstanding any other provision of law, and subject to sub-
15 section (8) of this section, the following are not confidential and not exempt
16 from disclosure:

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

18 “(b) The basis for the juvenile court's jurisdiction over the youth or youth
19 offender;

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

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

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

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

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

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

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

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

10 “(c) The name and age of the adult complaining party and the adult vic-
11 tim, unless the disclosure of such information is otherwise prohibited or re-
12 stricted;

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
15 whether there was resistance, pursuit or a weapon used in taking the youth
16 into custody.

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

21 “(9) Nothing in this section limits access to any juvenile court records
22 by an appellate court reviewing a juvenile court order or judgment. Appel-
23 late court rules may establish procedures for appellate court access to juve-
24 nile records.

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

30 “(11) Nothing in this section prohibits a guardian appointed under ORS

1 419B.365 or 419B.366 from disclosing or providing copies of letters of
2 guardianship when so required to fulfill the duties of a guardian.

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

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

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

9 **“Sec 6.** The amendments to ORS 419A.255[, 419A.256] and 419B.881 by
10 sections 1 [to 3] **and 7** of this 2013 Act apply to dependency proceedings
11 commenced on or after the effective date of this 2013 Act.”.

12
